

REQUEST FOR PROPOSAL

RFP No. 15-01

Notice to Prospective Proposers for

Assessment of Investment Account Securities as part of the California Statewide Single Audit for Fiscal Years 2014/15, 2015/16, 2016/17

September 28, 2015

You are invited to review and respond to this Request for Proposal (RFP) No. 15-01 for an Assessment of Investment Account Securities as part of the California Statewide Single Audit for the fiscal years ending June 30, 2015 and June 30, 2016, with an option for the fiscal year ending June 30, 2017. In submitting your proposal, you must comply with these instructions.

Prospective contractors interested in responding to this RFP are encouraged to submit a postcard or brief letter indicating their interest and providing their firm's name and address. This postcard/letter should be sent to the attention of Ana Clark at the California State Auditor's Office by **October 2, 2015**. Submitting the postcard/letter will ensure that your firm receives supplemental or updated information that might be released subsequent to the State Auditor's issuance of the RFP.

Note that all agreements entered into with the State of California will include all of the General Terms and Conditions included in this RFP as Attachment E, and, depending on the Contractor, agreements will include most or all of the Special Terms and Conditions included in this RFP as Attachment F.

In the opinion of the California State Auditor, this RFP is complete and without need of explanation. However, if you have questions, or you need any clarifying information, the contact person for information about this RFP is:

Ana Clark, Manager of Fiscal and Business Services
California State Auditor's Office
Telephone: (916) 445-0255
E-mail: Proposals@auditor.ca.gov

Please note that no information provided orally will be binding on the California State Auditor unless subsequently issued in writing as an official addendum to the RFP.

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* Required

Section I **KEY DATES**

Listed below are the important dates and times by which actions must be taken or completed. If the California State Auditor finds it necessary to change any of these dates, this will be accomplished by addendum.

<i>Action</i>	<i>Time</i>	<i>Date</i>
1. Release of RFP		September 28, 2015
2. Intent to Bid Postcard/Letter		October 2, 2015
3. Questions Due		October 5, 2015
4. Proposals Due	9:00 a.m.	October 14, 2015
5. Opening of Proposals	9:30 a.m.	October 14, 2015
6. Tentative Award of Contract		October 16, 2015
7. Contract Award and Execution		October 26, 2015

Section II **PURPOSE AND SCOPE OF WORK**

The California State Auditor's Office, as an entity of the State of California, requests proposals to be submitted for the following purpose and in accordance with each of the following terms and conditions:

1. **PURPOSE**

In this RFP, the State solicits qualified bidders who will be available to value transactions undertaken and securities held by the State Treasurer's Office for its Pooled Money Investment Account (pooled account), as part of the financial component of the California statewide single audit. The objective of this RFP is to select a contractor or contractors through a competitive bidding process with whom the State will enter into a contract for services closely resembling the Contract included with this RFP at **Attachments B through I**.

2. **BACKGROUND AND SCOPE OF WORK**

One of the primary audits conducted annually by the State Auditor's Office is the comprehensive statewide Single Audit of California. The State Auditor's audit report opines on the fairness of the presentation of California's basic financial statements and, combined with the compliance audit work performed on federal programs, fulfills provisions of the Single Audit Act, as amended.

As of June 30, 2014, the State Treasurer's Office (STO) managed over \$59.8 billion worth of securities in its pooled account. On that date, the weighted average maturity of the securities in the pooled account was approximately 239 days, and the account primarily consisted of U.S. treasury bills and notes and certificates of deposit. For further information on the composition of the account and authorized investments on June 30, 2014, see **Attachment A** for an excerpt of Footnote 3: Deposits and Investments from the State's Comprehensive Annual Financial Report for the Fiscal Year Ending June 30, 2014.

3. **RESPONSIBILITIES AND DELIVERABLES**

Objective One: Determine the Reasonableness of Market Values on June 30 of the appropriate fiscal year.

For each of the next three fiscal year ends, starting with fiscal year 2014-15, the contractor independently shall value a sample of securities held by the STO in its Pooled Money Investment Account (PMIA) on June 30 of the appropriate fiscal year. Using these values, the contractor then shall evaluate the reasonableness of the market values for these securities as reported by the STO. The contractor shall provide a detailed analysis comparing values as determined by the contractor and the STO for each security in the sample. The contractor also shall provide a narrative discussing any significant variances in the values for individual securities, and shall discuss the variances by asset class and for the sample as a whole. Based on its analysis, the contractor shall conclude on the reasonableness of the STO's market values. For this objective, the State will provide the contractor with a sample of up to 60 securities as well as the market value of these securities as reported to the State by the STO. The State's listing will include a security description, CUSIP number, maturity date, purchase date, par value, and interest rate, if applicable, for each sampled security.

Objective Two: Determine the Reasonableness of Market Prices Paid and Received.

For fiscal years 2014-15 and 2016-17, the contractor independently shall determine market purchase and sale prices for a sample of securities acquired and disposed of by the STO for its PMIA in that year. Using these prices, the contractor shall evaluate the reasonableness of the prices paid and received by the STO. The contractor shall provide a detailed analysis comparing prices as determined by the contractor and

reported by the STO for each security in the sample. The contractor also shall provide a narrative discussing significant variances in the prices of individual securities and shall discuss variances by asset class and for the sample as a whole. Based on its analysis, the contractor shall conclude on the reasonableness of the STO's market prices. For this objective, the State will provide the contractor with a sample of up to 25 acquisitions and 25 dispositions as well as the prices paid or received for these securities as reported to the State by the STO. The State's listing will include a security description, CUSIP number, maturity date, purchase or disposal date, par value, premium or discount, accrued interest, and certificate of deposit interest rate, if applicable, for each sampled security.

Deliverables:

For analyses related to fiscal year 2014-15, the contractor shall send its deliverables to the State no later than November 24, 2015. For subsequent fiscal years, the contractor will send its deliverables to the State no later than September 15 following the end of each relevant fiscal year. Deliverables for both objectives shall include the following:

- An executive summary providing an overview of the contractor's analysis.
- A valuation methodology explaining how the contractor determined market values or prices for various asset categories.
- An analysis discussing the results of the contractor's comparison of its market values and prices with those of the STO.
- A conclusion on the reasonableness of the STO's market values and market prices.
- A table comparing the contractor and STO values or prices for each sampled security.
- A table comparing the contractor and STO values or prices by asset category.

Section III PROPOSAL REQUIREMENTS AND INFORMATION

1. TIME SCHEDULE

All prospective contractors hereby are advised of the following schedule and will be expected to adhere to the required dates and times.

<u>Event</u>	<u>Date</u>
RFP Release Date	September 28, 2015
Intent to Bid Postcard/Letter	October 2, 2015
Written Questions Submittal Deadline	October 5, 2015
Final Date for Proposal Submission	October 14, 2015 by 9:00 A.M.
Opening of Proposals	October 14, 2015
Evaluation Completed	October 16, 2015
RFP Award Notice Posted in the Lobby of the State Auditor's Office and on its Website	October 16, 2015
Agreement Award	October 26, 2015
Contract Approved and Signed	November 2, 2015
Contract Work Starts	November 2, 2015

2. DUE DATE

TIME IS OF THE ESSENCE. Proposals must be submitted and received not later than **9 A.M. on October 14, 2015**, and shall be delivered via Federal Express or other express delivery service, messenger, or courier service. Late proposals will not be accepted without exceptional cause and the express written permission of the State Auditor.

3. ADDRESS

Proposals shall be submitted in a sealed envelope, clearly marked "**DO NOT OPEN - Response to RFP No. 15-01**" and addressed to:

California State Auditor's Office
Attention: Ana Clark
621 Capitol Mall, Suite 1200
Sacramento, California 95814

4. QUESTIONS

Prospective contractors requiring clarification or further information on the intent or content of this RFP or on procedural matters regarding the competitive bidding process may submit questions with a cover page clearly marked “**Questions Relating to RFP No. 15-01**” by facsimile to (916) 327-0019, by e-mail to Proposals@auditor.ca.gov, or by mail to:

California State Auditor’s Office
Attention: Ana Clark
Questions Relating To RFP No. 15-01
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

To ensure a response, questions must be received in writing by 5 p.m. on **October 5, 2015**. Without indentifying the bidders, each question and answer set will be provided to every prospective contractor who has submitted a card or letter indicating s an interest in bidding.

If disclosing questions regarding a proposal to other prospective contractors would compromise proprietary information, a prospective contractor may seek clarification or further information on the content of the RFP by marking the question packet “CONFIDENTIAL” and submitting questions as described above. The prospective contractor must explain why his/her question(s) are sensitive in nature. If the State Auditor agrees that disclosure of the question or answer would expose the proprietary nature of the proposal, the question will be answered and both the question and answer will be kept in confidence. If the State Auditor does not agree that disclosure of the question or answer would expose the proprietary nature of the proposal, the question will not be answered in this manner and the prospective contractor will be so notified.

5. COPIES

Prospective contractors must submit six (6) legible copies of their proposal. The original proposal must be marked “ORIGINAL COPY.” All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to bind the proposing firm. All additional proposal sets may contain photocopies of the original package.

6. FORMAT OF PROPOSALS

To facilitate the two-stage review of proposals as described in **paragraph 13** of section III of this RFP, each proposal must be submitted in two separate parts and in sealed envelopes. Part I must contain all responsive materials except those relating to cost. Part II must contain only information relating to costs that will be charged by the prospective contractor.

7. MINIMUM CONTENTS OF PROPOSAL

At the sole discretion of the State Auditor, a proposal may be eliminated from consideration if it fails to contain each of the following provisions or to provide a justification satisfactory to the State Auditor for its exclusion:

a. Contractor.

Identification of the prospective contractor, including the name of the firm submitting the proposal, its mailing address, its telephone number, and contact information for the State to request further information.

b. Management.

Identification by name of the lead personnel the prospective contractor proposes to assign to the engagement. Contract terms will not permit substitution of lead personnel without the prior written approval of the State Auditor.

c. Personnel.

For each individual that the prospective contractor proposes to assign to the engagement (excluding administrative support personnel), the contractor should provide a summary of similar work or studies performed by the individual, a resumé, and a statement indicating his/her planned responsibilities under the contract. Any anticipated limitations on the availability of these individuals should be identified. Auditors assigned to the engagement must have experience and expertise in performing federal compliance audits as part of a statewide Single Audit or program-specific audits of large federal programs at the state level. The proposal also should state specifically for each individual that the prospective contractor proposes to assign to the engagement (excluding administrative support personnel):

- Whether the individual has received continuing professional education in governmental accounting and auditing during the last two years;
- Whether the individual is independent, as defined by applicable auditing standards, and free from conflicts of interest as described in **subparagraph g** of this paragraph;
- Whether the individual or the firm has received an external quality control review within the last three years and the results of that review.
- Whether the individual or the firm has been the object of any disciplinary action by a licensing or regulatory authority during the past three years.

Former employees of the State Auditor's Office may not perform any work for the engagement within one year following the termination of their employment. The State Auditor reserves the right to reject any individual proposed to be assigned to the engagement.

d. Related experience.

Prospective contractors shall provide the State Auditor's Office with a list of projects performed by the contractor that have been similar to the engagement described in this RFP. Specifically, the list must include three examples of projects in which the prospective contractor conducted similar analyses. The listing should include:

- Title of the project;
- Name of the entity;
- Brief description of the project; and
- Name and telephone number of the entity's contracting officer.

By furnishing this information, the prospective contractor gives permission for the State Auditor's Office to contact the parties to the prior projects to obtain information about the contractor's performance.

If the prospective contractor's firm is newly organized, a listing of projects completed by the firm's lead personnel prior to the organization of the firm may be acceptable. If the prospective contractor is a joint venture, the experience of the joint venturers may be combined.

e. Subcontracts.

Prospective contractors should list any prospective subcontractors they plan to use in performing the engagement, including a listing of the individuals the subcontractor proposes to assign to the engagement and the location(s) where the work will be performed in accordance with **subparagraphs b and c** of this paragraph. The State Auditor reserves the right to reject any subcontractors proposed by a contractor. Subcontractors, if used, shall be subject to all terms, conditions, and qualifications required by this RFP.

f. Methodology.

The proposal shall include a description of the prospective contractor's overall approach to providing the services described in Section I of this RFP. The proposal must include specific techniques, administrative and operational management expertise, and typical staffing patterns (e.g., the ratio of management and key staff to general professional staff) used for the kinds of work described in this RFP.

g. Independence/Conflict-of-Interest Disclosure.

- (i) The prospective contractor shall disclose and shall have a continuing duty to disclose any financial, business, or other relationship of the contractor, the subcontractors, or the individual employees of the contractor or the subcontractors that may have an impact on the work to be performed as part of

the engagement. (See **Attachment I** of this RFP for a form that must be submitted with a proposal for making such disclosures.)

- (ii) For the disclosure described in **subparagraph g(i)** of this paragraph, the prospective contractor shall include information regarding situations that might create an appearance of a lack of independence, regardless of whether the contractor believes that the situation creates an actual conflict of interest, and how the contractor intends to manage the situations. If the prospective contractor believes that there may be an appearance of a conflict of interest or lack of independence based on any previous or ongoing work the contractor has performed, the contractor shall address specifically how it plans to manage this appearance, including how it will establish appropriate fire-walls to guard against the appearance.
- (iii) If the prospective contractor believes that no conflict of interest or appearance of lack of independence, as described in **subparagraph g(ii)** of this paragraph exists, then the contractor shall include a statement to that effect in the proposal.
- (iv) The State Auditor reserves the right to disqualify a prospective contractor or any individual the contractor proposes to assign to the engagement if the State Auditor believes that the best interests of the State require that the contractor or individual be disqualified because of a conflict of interest or because of a situation that creates the appearance of a lack of independence.
- (v) The contractor awarded the contract shall be required to submit an updated Independence Questionnaire/Conflicts of Interest Disclosure (**Attachment I**) upon execution of the contract.
- (vi) In accordance with the Conflict of Interest Code of the State Auditor's Office, the contractor awarded the contract also may be required to submit a Statement of Economic Interests (Form 700).

h. Cost.

The prospective contractor shall include in the proposal a separate quotation of charges per fiscal year, including the classes of personnel to be used for the engagement, the total hourly rate to be charged for each class of personnel, the estimated number of hours that each class of personnel will work on the engagement, and any other costs for equipment, software, or supplies. That cost component must project the total number of hours required to produce the deliverables and contain a cost quotation of charges for each class of personnel that would be used to produce the deliverables. The proposal also should include a cost component for expert testimony that may be required after the audit report is issued.

The charges listed in the quotation should be provided as hourly rates and should be applicable throughout the contract term.

The proposal should detail any other charges (such as charges for clerical support, reproduction, and delivery) that would be charged to the State Auditor's Office. If the State Auditor requires the selected contractor's personnel to travel, the rates charged by the contractor for travel-related expenses shall not exceed the rates established for employees of the State.

The State only will pay for hours actually worked by the selected contractor's personnel at the rates submitted and only for actual expenses incurred.

The amount payable for the costs of travel, if any, shall be negotiated with the selected contractor in conformity with **Attachment D** of this RFP.

i. Preference Programs.

(i) Small Business Preference Program

The prospective contractor shall include in the proposal a statement indicating whether or not the contractor claims a California Certified Small Business (CCSB) preference and, if so, must certify its small business status using **Attachment L**.

This RFP does not include a minimum small business participation preference. Prospective contractors claiming the five (5) percent CCSB preference must be certified by California as a small business or must commit to subcontract at least 25 percent of the net bid price with one or more CCSB entities. Certification must be obtained no later than 5:00 p.m. on the bid due date.

To claim the CCSB preference, which may not exceed five (5) percent for any bid, the prospective contractor must have its principal place of business located in California, have a complete application (including proof of annual receipts) on file with the State Office of Small Business and DVBE Services by 5:00 p.m. on the bid due date and be verified for eligibility by that office.

If a prospective contractor qualifies for the CCSB preference, the State Auditor will reduce the firm's cost estimate by five (5) percent when comparing it to the cost estimates included in the other proposals received.

(ii) Disabled Veteran Business Enterprise (DVBE) –Incentive Program

The DVBE Incentive Program applies to this solicitation. It is separate from the DVBE Participation Program. The incentive is used only for evaluation purposes to arrive at the successful bidder and does not alter the amount of the actual bid. Any responsive and responsible bidder with confirmed DVBE eligibility per Table 1 is eligible to receive the incentive, which will be applied only to the cost proposal portion of the proposal. Prospective contractors who are not responsive or responsible, regardless of the amount of the DVBE participation, are not eligible to receive the incentive.

The State Auditor will apply the incentive to bids proposing the utilization of DGS Certified DVBE firms identified in the Bidder Declaration (**Attachment M**). Information provided on the Bidder Declaration shall be verified by the State Auditor's Office prior to the award of the contract. The incentive amount is applicable to the cost portion of the proposal and is equal to a percentage of the lowest responsive and responsible bids based on the amount of DVBE participation in the bid being evaluated per Table 1. When applying the DVBE Incentive, a Non-Small Business shall not displace an award to a DGS Certified Small Business.

Table 1: DVBE Participation (Low Price Method)

Verified DVBE Participation	DVBE Incentive Amount
5% or More	5%
4% - 4.99 %	4%
3% - 3.99%	3%
2% - 2.99%	2%
1% - 1.99%	1%

(iii) Target Area Contract Preference.

A prospective contractor requesting the Target Area Contract Preference shall submit a completed preference request form (**Attachment N**) and agree to comply with all of the following requirements.

- A. The contractor shall comply with the requirements of the Target Area Contract Preference Act (Gov. Code, § 4530 et seq.) and attendant rules and regulations (Cal. Code Regs., tit. 2, § 1896.30 et seq.).
- B. The State or its designee will have the right to inspect the contractor's facilities and operations and to inspect, review, obtain, and copy all records pertaining to performance of the contract or compliance with the requirements of the Target Area Contract Preference Act and attendant rules and regulations. The contractor shall maintain such records for a period of three (3) years after receiving final payment under the contract.
- C. Regarding certification to hire persons at high risk for unemployment, the contractor shall:
 - (I) Act in good faith to maintain such persons as employees for the duration of the contract performance;
 - (II) Make a reasonable effort to replace those persons at high risk for unemployment who, for any reason, permanently cease to be on the payroll, with other persons at high risk for unemployment; and

(III) Promptly report to the State and thereafter confirm in writing within seven (7) days the names of such persons who have been terminated or absent from work for more than three (3) consecutive work days and communicate the reasons for the termination or absence. Under such circumstances, the contractor shall consult with the State and the Employment Development Department with respect to the replacement of such persons.

j. Darfur Contracting Certification.

If the State Auditor may have reason to believe the prospective contractor has had business activities or other operations outside the United States within the previous three years, the prospective contractor shall include an executed Darfur Contracting Certification, attached hereto as **Attachment J**.

k. Trade Secrets or Other Confidential Proposal Information.

Any components of the proposal reflecting trade secrets or other confidential information prominently shall be marked "CONFIDENTIAL" and shall identify the reasonable legal basis for confidentiality. The State will deem any portion of the proposal not marked "CONFIDENTIAL" as subject to release under the California Public Records Act.

8. OTHER CONTENTS OF PROPOSAL

The prospective contractor may include any relevant information and pertinent exhibits in the proposal. The proposal is to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of the solicitation. The prospective contractor should place an emphasis on conformity with the instructions, responsiveness to the requirements described herein, and completeness and clarity of content.

In preparing a proposal, a prospective contractor should take into account the requirements of each attachment described in **paragraph 16** of this **section III**. Proposals must be complete in all respects and submitted by the dates and times shown in **paragraph 1** of section III of this RFP. At the sole discretion of the State Auditor, a proposal may be rejected if it is conditional, incomplete, or contains alterations of form or other irregularities.

9. GOVERNMENT AUDITING STANDARDS

The prospective contractor must perform the engagement in compliance with the current Government Auditing Standards as promulgated by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants (see Gov. Code, §§ 8546 and 8546.1).

10. ENCRYPTION AND INFORMATION PRIVACY POLICY

To ensure the security and integrity of confidential, sensitive, or personal data generated or received by a contractor during and after performing work for the State Auditor's Office, the selected contractor shall be required to execute a certification of compliance with the State Auditor's Encryption and Information Privacy Policy attached hereto as **Attachment G**.

11. CONFIDENTIALITY / NONDISCLOSURE

To ensure compliance with the statutes governing the work of the State Auditor's Office, including Government Code sections 8545, 8545.1, and 8545.3, the selected contractor and each of its employees, agents, or subcontractors assigned to the engagement shall be required to execute the Confidentiality / Nondisclosure Statement attached hereto as **Attachment H**.

12. PROTECTED HEALTH INFORMATION AND PERSONAL DATA SECURITY POLICY

To ensure protection of the confidentiality and integrity of any personal health information or personal data received by the contractor while performing work for the State Auditor's Office, the selected contractor shall be required to comply with the State Auditor's Protected Health Information and Personal Data Security Policy attached hereto as **Attachment K**.

13. REVIEW PROCESS AND CRITERIA

Subject to **paragraphs 7 and 13** of this **section III**, the State Auditor will select the successful contractor(s) on the basis of both merit and cost, with a preference of five (5) percent on the cost of the proposal given to qualified small businesses, disabled veteran business enterprises, and target area contractors. An evaluation committee only will be given Part I of each proposal and will score the merit of each proposal using the following criteria:

<u>Part I - Technical Merit</u>	Maximum Points
Technical Aspects of Proposal:	
Quality of approach and methodology	30
Clarity and succinctness of proposal	10
Organizational Capabilities:	
Demonstrated ability to perform analyses of the reasonableness of reported values and the prices paid and received for securities	25
Qualifications and experience of management personnel and lead staff to be assigned to the engagement	20
Related organizational experience	15
Part I - Technical Merit Score:	100

Any proposal not receiving a score of 75 points or more on technical merit will be eliminated from further consideration. To determine the merit score, the State Auditor may apply a statistical averaging method to scores submitted by the evaluation committee.

Part II - Cost

The evaluation of cost will be in accordance with the following process:

During this phase, cost proposals will be opened. The cost proposal with the lowest cost will be assigned a score of 100 points (after adjustments are made for any applicable preference programs). Other cost proposals will be assigned points on a proportional basis relative to the cost of the lowest bid (with adjustments made for any applicable preference programs). For example, if the second lowest cost proposal is 20 percent higher than the lowest cost bid, it will be assigned a point score of 80, which is 20 percent lower than the point score of the lowest cost proposal.

Combined Score

The Part I - Technical Merit score will be given a weight of 65 percent of the total score and the Part II - Cost score will be given a weight of 35 percent. The prospective contractor with the highest overall score will be awarded the contract.

If no proposal is received offering a price that in the opinion of the State Auditor is a reasonable price, the State Auditor is not required to award a contract.

During the evaluation and selection process, the State Auditor's Office may request the presence of a prospective contractor's representative to answer specific questions presented orally and/or in writing. If a final proposal contains discrepancies between sections or other errors, the State Auditor may reject the proposal. Alternatively, the State Auditor may choose to retain the proposal and simply correct any arithmetic or transpositional errors that are evident.

12. NOTICE OF INTENT TO AWARD AND PROTEST PROCEDURES

- a. The State Auditor's Office will notify all prospective contractors of its tentative decision to award the contract. Within five (5) days after the notification is issued, any person or firm that has submitted a proposal can protest the tentative award of the contract to another party by submitting the grounds for the protest to the State Auditor's Office. The State Auditor will make a final award of the contract upon determining that the grounds for the protest are invalid.
- b. If the State Auditor determines that the grounds for a protest, as described in **subparagraph a** of this paragraph, are valid, the State Auditor's Office will notify all prospective contractors that there has been a tentative change in the award of the contract. The procedure described in **subparagraph a** will then be followed again.

13. RIGHT TO REJECT ANY OR ALL PROPOSALS

The policy of the State Auditor is to solicit proposals with a bona fide intention to award a contract. The State Auditor, in her sole discretion, may reject any and all bids submitted in response to this RFP, without regard to the cost or quality of any proposal or other considerations upon determining that it is in the best interest of the State to do so.

14. MODIFICATION OR WITHDRAWAL OF PROPOSAL

Any proposal submitted to the State Auditor's Office may be withdrawn or modified at the written request of the prospective contractor. However, for a modified proposal to be considered, the modified proposal must be received by the State Auditor's Office prior to the deadline for submitting a proposal.

15. MODIFICATION OR AMENDMENT OF RFP

This RFP may be modified at any time prior to the time set for receipt of proposals and thereafter so long as no proposal has been opened. Upon such modification, all prospective contractors that have submitted a postcard or letter indicating an interest in submitting a proposal will be notified of the modification. At the discretion of the State Auditor, others may not be notified.

16. INCORPORATION OF ATTACHMENTS

This RFP consists of 57 pages and contains the following attachments which, by this reference, are incorporated into the RFP:

- Attachment A:** Footnote 3: Deposits and Investments from the State's Comprehensive Financial Report for the Fiscal Year Ending June 30, 2014
- Attachment B:** Standard Agreement Form (STD 213)
- Attachment C:** Exhibit A: Scope of Work and Description of Services
- Attachment D:** Exhibit B: Budget Detail and Payment Provisions
- Attachment E:** Exhibit C: General Terms and Conditions
- Attachment F:** Exhibit D: Special Terms and Conditions
- Attachment G:** Encryption and Information Privacy Policy
- Attachment H:** Confidentiality/Nondisclosure Statement
- Attachment I:** Independence Questionnaire/Conflicts of Interest Disclosure
- Attachment J:** Darfur Contracting Act Certification
- Attachment K:** Protected Health Information and Personal Data Security Policy
- Attachment L:** Proposal/Proposer Certification Sheet
- Attachment M:** Bidder Declaration
- Attachment N:** Target Area Contract Preference Request
- Attachment O:** Required Attachment Checklist

17. ACCEPTANCE

By submitting a proposal in response to this RFP, a prospective contractor expressly accepts all provisions of the RFP, including all attachments, exhibits, and schedules. If a prospective contractor indicates an unwillingness to accept any provision of the RFP, the contractor's proposal may be rejected by the State Auditor. However, the State Auditor retains the right to negotiate with the contractor regarding the specific provisions of the final contract.

18. AGREEMENT EXECUTION AND PERFORMANCE

The performance of services under the contract shall commence no later than five (5) days after the contract has been given all necessary approvals executed fully, unless the State Auditor and the contractor agree on a different date for services to begin. In the event that the contractor fails to commence work at the specified time, the State, upon five (5) days written notice to the contractor, may terminate the contract. In addition, the contractor shall be liable to the State for the difference between the contractor's proposed price for performing the services and the actual cost incurred by the State to obtain the services from another contractor.

19. PUBLIC DISCLOSURE OF PROPOSAL

All proposals submitted in response to this RFP shall become the property of the State and shall, along with the summaries of evaluations, be available to the public for review after the contract is awarded. Proprietary information, as reasonably identified in a proposal by the prospective contractor, shall remain confidential as permitted by law. To prevent its release to the public, a prospective contractor must indicate what information in the proposal is proprietary and include a clear citation to relevant provisions of law exempting or precluding that information from being disclosed.

Section IV **ATTACHMENTS**

Attachment A

Footnote 3: Deposits and Investments from the State's Comprehensive Annual Financial Report for the Fiscal Year Ending June 30, 2014

NOTE 3: DEPOSITS AND INVESTMENTS

The State Treasurer administers a single pooled investment program comprising both an internal investment pool and an external investment pool (the Local Investment Fund). A single portfolio of investments exists, with all participants having an undivided interest in the portfolio. Both pools are administered in the same manner, as described below.

As required by generally accepted accounting principles, certain risk disclosures are included in this note to the extent that the risks exist at the date of the statement of net assets. Disclosure of the following risks is included:

Interest Rate Risk is the risk that the value of fixed-income securities will decline because of changing interest rates. The prices of fixed-income securities with longer time to maturity tend to be more sensitive to changes in interest rates than those with shorter durations.

Credit Risk is the risk that a debt issuer will fail to pay interest or principal in a timely manner, or that negative perceptions of the issuer's ability to make these payments will cause security prices to decline.

Custodial Credit Risk is the risk that, in the event a financial institution or counterparty fails, the investor will not be able to recover the value of deposits, investments, or collateral.

Concentration of Credit Risk is the risk of loss attributed to the magnitude of the investor's holdings in a single issuer.

Foreign Currency Risk is the risk that changes in exchange rates will adversely affect the fair value of an investment or a deposit.

Standard Agreement Form (STD 213)

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/15)

AGREEMENT NUMBER CSA-C-XXX-XXXX
REGISTRATION NUMBER

1.	This Agreement is entered into between the State Agency and the Contractor named below: STATE AGENCY'S NAME CALIFORNIA STATE AUDITOR'S OFFICE CONTRACTOR'S NAME [CONTRACTOR]
2.	The term of this Agreement is: [START DATE] through [END DATE]
3.	The maximum amount of this Agreement is: \$ [AMOUNT]
4.	The parties agree to comply with the terms and conditions of this Agreement, including the following exhibits and attachments marked with an <input checked="" type="checkbox"/> , which are, by this reference, fully incorporated and made a part of the Agreement. <input type="checkbox"/> Exhibit A – Scope of Work and Description of Services <input type="checkbox"/> Exhibit B – Budget Detail and Payment Provisions <input type="checkbox"/> Exhibit C – General Terms and Conditions <input type="checkbox"/> Exhibit D – Special Terms and Conditions <input type="checkbox"/> Attachment 1 – Encryption and Information Privacy Policy <input type="checkbox"/> Attachment 2 – Confidentiality/Nondisclosure Statement <input type="checkbox"/> Attachment 3 – Independence Questionnaire / Conflicts of Interest Disclosure <input type="checkbox"/> Attachment 4 – Darfur Contracting Act Certificate

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR	
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) [CONTRACTOR]	
BY (Authorized signature)	DATE SIGNED (Do not type.)
PRINTED NAME AND TITLE OF PERSON SIGNING [CONTRACTOR]	
ADDRESS [CONTRACTOR'S ADDRESS]	
STATE OF CALIFORNIA	
AGENCY NAME CALIFORNIA STATE AUDITOR'S OFFICE	
BY (Authorized signature)	DATE SIGNED (Do not type.)
PRINTED NAME AND TITLE OF PERSON SIGNING ELAINE M. HOWLE, STATE AUDITOR	
ADDRESS 621 Capitol Mall, Suite 1200, Sacramento, CA 95814	

EXHIBIT A
SCOPE OF WORK AND DESCRIPTION OF SERVICES

1. SCOPE OF WORK

The State and the Contractor enter into this Agreement for the following purpose:

(SEE SECTION II OF THIS RFP.)

2. DESCRIPTION OF SERVICES

In exchange for the consideration described in **Exhibit B**, the Contractor promises to provide the following services and other deliverables in the manner specified:

(SEE SECTION II OF THIS RFP.)

3. PROJECT REPRESENTATIVES

The project representatives during the term of this Agreement will be:

For the California State Auditor's Office:	For the Contractor:
Business Services Coordinator: Fiscal & Business Services Manager	Company:
Project Coordinator/Manager: Audit Principal	Name, Title:
Address:	Address:
Phone:	Phone:
Fax:	Fax:

Either party may change a Project Representative upon providing written notice to the other party.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. AMOUNT PAYABLE

The total amount payable under this Agreement may not exceed _____ and is payable as follows:

- a. In exchange for providing the promised services and other deliverables specified in **Exhibit A** of this Agreement, the State shall pay the Contractor the following consideration:
- b. The State shall pay the Contractor for certain travel and living expenses incurred by the Contractor when providing services that are the subject of this Agreement at locations required by the State Auditor that are other than the Contractor's usual place or places of business. The travel and living expenses payable by the State are as follows:
 - (i) Airfare: commercial carrier coach fare, supported by a receipt.
 - (ii) Other transportation: actual and reasonable transportation expenses, supported by a receipt.
 - (iii) Living expenses: actual expenses, not to exceed maximum state employee per diem rates, claimed and computed in accordance with the regulations of the Department of Human Resources in effect when the expenses are incurred.
- c. The consideration to be paid to the Contractor, as provided herein, is in compensation for all of the Contractor's expenses incurred in the performance of this Agreement, including taxes and travel and living expenses, unless otherwise expressly provided.
- d. This Agreement is valid and enforceable only if sufficient funds, as determined by the State Auditor, are made available by the Budget Act of the appropriate fiscal year for these services. In addition, the Agreement is subject to any additional restriction, limitations, or conditions enacted by the Legislature, which may affect the provisions, terms, or funding of the Agreement.
- e. No minimum amount of work is guaranteed under this Agreement.

2. PAYMENTS

- a. Whenever payment is owed by the State, the Contractor shall submit invoices on a monthly basis by the tenth (10th) day of each month. The invoices shall include a separate itemized accounting of all charges, including appropriate original receipts for travel and other administrative expenses. Invoices shall be submitted in duplicate and sent to:

California State Auditor's Office
Attention: Accounting
621 Capitol Mall, Suite 1200
Sacramento, CA 95814
- b. As a necessary precursor to receiving payment from the State, the Contractor, unless a state agency or other governmental entity, shall maintain on file with the State a completed Payee Data Record Form (STD 204).

**EXHIBIT C
GENERAL TERMS AND CONDITIONS**

1. TERM

- a. The term of this Agreement is (See Section II of this RFP.), inclusive, except that **paragraphs 7, 8, 9, 10, 20, 21, and 26** of this **Exhibit C** and paragraphs _____ of **Exhibit D** shall apply beyond this term and shall remain in effect notwithstanding any termination of the Agreement.
- b. The parties mutually may agree in writing to extend the term of this Agreement.
- c. All references to the term of this Agreement or the Agreement term shall include any extensions of the term.

2. APPROVAL OF AGREEMENT

This Agreement is of no force or effect until signed by both parties.

3. TIME OF PERFORMANCE

For this Agreement, time is of the essence, including any schedule established by the Agreement for the performance of services.

4. NOTICE

- a. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing.
- b. Notice may be served by certified mail properly addressed. Postage must be prepaid fully to the address beneath the name for each respective party provided in **subparagraphs c and d** of this paragraph. That notice shall be effective when received as indicated by post office records or, if deemed undeliverable by the post office, nonetheless shall be effective fifteen (15) days after mailing. Alternatively, notice may be given by personal delivery by any means whatsoever to the party at the address designated. That notice shall be deemed effective when delivered unless a legal holiday for state offices commences during said twenty-four (24)-hour period, in which case, the effective time of the notice shall be postponed twenty-four (24) hours for each intervening day.
- c. For the above purposes, the State Auditor's address is:

**California State Auditor's Office
621 Capitol Mall, Suite 1200
Sacramento, California 95814**

- d. For the above purposes, the Contractor's address is:

**[CONTRACTOR]
[ADDRESS]
[CITY, STATE, ZIP]**

5. INDEPENDENT CONTRACTOR STATUS

- a. The Contractor, and the agents and employees of the Contractor, shall act, in the performance of this Agreement, in an independent capacity and not as officers, employees, or agents of the State. In accordance with that independent capacity, it is understood and agreed by the parties that the State has no right under the Agreement to control or direct the manner or means by which the Contractor undertakes to provide the services to be rendered to the State, and that the Contractor shall exercise independent judgment in all matters pertaining to the manner and means of performing under the Agreement.

- b. Subject to **subparagraph a** of this paragraph, the Contractor shall ensure that the Contractor's employees and agents, whenever performing services on the State's premises, observe all reasonable instructions and directions issued by the State.

6. STATE PERSONNEL

The Contractor shall not be permitted to use State personnel for performing services that are the responsibility of the Contractor unless that use has been approved previously in writing by the Project Coordinator and an appropriate adjustment in price has been made. No charge will be made to the Contractor for the services of state employees while performing a coordinating or monitoring function.

7. OWNERSHIP OF INFORMATION AND WORK PRODUCT

- a. All professional and technical information developed under this Agreement, including all reports, information, related data, work sheets, findings, and conclusions produced under the Agreement ("work product") is the property of the State.
- b. The Contractor shall keep confidential the State's work product and shall protect it from unauthorized disclosure.
- c. The Contractor agrees to deliver reproducible copies of the State's work product at the request of the Project Coordinator

8. INDEMNIFICATION

- a. Each of the parties to this Agreement shall be liable solely for the negligent or wrongful acts or omissions of its representatives, agents, or employees occurring in the performance of the Agreement.
- b. If either party becomes liable for damages caused by the party's representatives, agents, or employees, it shall pay such damages without contribution by the other party. The Contractor's obligation under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for the Contractor to maintain insurance.
- c. To the extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the State, its officers, agents, and employees from any and all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney fees, arising from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor in the performance of the Agreement. Such defense and payment will be conditional upon the following: (1) the State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and (2) the Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided that: (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State otherwise is mandated by law, the State may participate in such action at its own expense with respect to attorneys fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will cooperate reasonably in the defense and in any related settlement negotiations.

9. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY

The Contractor shall be liable for damages arising out of injury to the person, and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to the delivery, installation, acceptance, and use of any deliverables under this Agreement regardless of where the injury or damage occurs, provided that the injury or damage was caused by the fault or negligence of the Contractor.

10. LIMITATION OF STATE LIABILITY

The liability of the State under this Agreement shall not exceed the total amount payable under the Agreement, as set forth in **paragraph 1 of Exhibit B** of the Agreement. In no event shall the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages.

11. AGREEMENT IS COMPLETE

This Agreement represents the complete and exclusive statement of the agreements between the State and the Contractor with respect to the subject matter of the Agreement and supersedes all prior agreements, proposals, representations, and other communications, oral or written, between the State and the Contractor regarding this subject matter. The State and the Contractor agree that there are no oral or written covenants, conditions, or agreements with respect to the subject matter of the Agreement except as set forth in the Agreement.

12. PREVAILING CLAUSES

In the event of a conflict between the General Terms and Conditions set forth in this **Exhibit C** of this Agreement and the provisions of any other exhibit or other attachment to the Agreement, the provisions of the General Terms and Conditions shall govern.

13. CAPTIONS

The paragraph headings appearing in this Agreement have been inserted for convenience only. They are not intended to define, explain, modify, amplify, limit, or extend the scope or intent of the paragraphs to which they pertain.

14. ASSIGNMENT

The Contractor may not transfer by assignment, subcontract, or novation the performance of this Agreement, or any part thereof, except with the prior written approval of the State as to each such assignment, subcontract,, or novation. Any approved assignment, subcontract, or novation shall be subject to all of the terms and conditions of the Agreement, including every exhibit or attachment thereto.

15. AMENDMENT OF AGREEMENT

This Agreement may be amended by mutual consent of the State and the Contractor. Any alteration of or variation from the terms of the Agreement is not valid unless made in writing and signed by the parties, and approved as required. No oral understanding or agreement not incorporated into the Agreement is binding on the State or the Contractor.

16. SEVERABILITY

In the event that any term, condition, or provision of this Agreement is unenforceable or held to be invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect and shall not be affected, impaired, or invalidated thereby.

17. FORCE MAJEURE

Except for defaults of subcontractors, the Contractor and the State are not responsible for delays or failures to perform resulting from acts beyond the control of the nonperforming party. Those acts include acts of god, strikes, lockouts, riots, acts of war, epidemics, earthquakes, other disasters, governmental statutes or regulations imposed after the fact, and ancillary functions or utilities that are provided by a person or entity not a party to this Agreement. If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and the default arises out of causes beyond the control of either the Contractor or the subcontractor, without the fault or negligence of either of them, the Contractor is not liable for damages for that delay or failure, unless the supplies or services to be furnished by the subcontractor were available from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

18. WAIVER

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in the Agreement shall be construed as cumulative; that is, in addition to every other remedy provided by the Agreement or otherwise provided by law. The failure of the State at any time to enforce any of the provisions of the Agreement or at any time to require performance by the Contractor of any of the Agreement's provisions, shall in no way be construed to be a waiver of such provisions nor in any way to affect the validity of the Agreement or any part thereof, or the right of the State thereafter to enforce each and every provision.

19. TERMINATION

- a. The State reserves the right to terminate this Agreement, without cause, upon giving five (5) days advance written notice to the Contractor in the manner specified in the Agreement. In that event, the Contractor agrees to use all reasonable efforts to mitigate any expenses or obligations hereunder, and all unpaid fees and charges shall become due and payable.
- b. Notwithstanding the notice provision of **subparagraph a** of this paragraph, the State may terminate this Agreement immediately for cause. The term “for cause” means the Contractor fails to meet the terms, conditions, and/or responsibilities of the Agreement. In this instance, termination of the Agreement shall be effective as of the date indicated in the State’s notice to the Contractor that the Agreement is being terminated. In that event, the Contractor agrees to use all reasonable efforts to mitigate any expenses or obligations hereunder, and all unpaid fees and charges immediately shall become due and payable.
- c. In the event of termination, without prejudice to any of its other remedies, the State shall, subject to the appropriation and availability of funds for that purpose, pay the Contractor only for the satisfactory services rendered by the Contractor and for the expenses incurred by the Contractor that were not included in the charges for the services rendered prior to the termination, provided that said expenses could not have been avoided through reasonable efforts by the Contractor.

20. DISPUTES

- a. The Contractor shall continue with the responsibilities under this Agreement during any dispute.
- b. Any dispute arising under or relating to the performance of this Agreement, which is not disposed of by agreement, shall be decided by the State Auditor, and that decision shall be reduced to writing and mailed or otherwise furnished to the Contractor.
- c. If the Contractor does not agree with the State Auditor’s decision, either party may assert its other rights and remedies within this Agreement or within a California court of competent jurisdiction. If any action is brought to enforce or interpret any provision of the Agreement, each party shall bear its own attorney fees and costs.

21. APPLICABLE LAW AND VENUE:

This Agreement, and any amendment to the Agreement, shall be governed by the laws of the State of California, both as to interpretation and performance, regardless of the specific location of any performance. Unless otherwise expressly agreed in writing by the parties, any action in law or equity brought to enforce any provision of the Agreement shall be filed and remain in a court of competent jurisdiction in the County of Sacramento, State of California.

22. NONDISCRIMINATION AND FAIR EMPLOYMENT PRACTICES

- a. In accordance with Government Code section 12990, during the performance of this Agreement, the Contractor and its subcontractors, if subcontracting is permitted under the Agreement, shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, religious creed, marital status, denial of family and medical care leave, ancestry, national origin, medical condition (cancer/genetic characteristics), age (40 and above), disability (mental and physical) including HIV and AIDS, denial of pregnancy disability leave, or denial of reasonable accommodation. The Contractor and its subcontractors, if subcontracting is permitted under the Agreement, shall insure that the evaluation and treatment of the Contractor’s and subcontractors’ employees and applicants for employment are free from such discrimination and harassment.
- b. The Contractor and its subcontractors, if subcontracting is permitted under this Agreement, shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, § 12990 et seq.), and the applicable regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 7285 et seq.).
- c. The Contractor shall permit access by representatives of the Department of Fair Employment and Housing at any time during normal business hours, upon reasonable notice, but in no case less than twenty-four (24) hours notice, to such of its books, records, accounts, other sources of information, and facilities to ascertain compliance with this paragraph.
- d. The Contractor and its subcontractors, if subcontracting is permitted under this Agreement, shall give written notice of their obligations under this paragraph to labor organizations with which they have a collective bargaining or other agreement.

- e. The Contractor shall include the nondiscrimination and compliance provisions of this paragraph in all subcontracts to perform work under this Agreement if subcontracting is permitted under the Agreement.
- f. The State may determine that a willful violation of the Fair Employment and Housing Act has occurred upon receiving from a court of competent jurisdiction a final judgment that a violation has occurred in an action to which the Contractor was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that the Contractor has violated the California Fair Employment and Housing Act and has issued an order, under Government Code section 12970, which has become final, or obtained an injunction under Government Code section 12973.
- g. For willful violation of the Fair Employment and Housing Act by the Contractor or one of its subcontractors, the State shall have the right to terminate this Agreement, and any loss or damage sustained by the State shall be paid for by the Contractor. Additionally, the State may deduct from any money due or that thereafter may become due to the Contractor, the difference between the price named in the Agreement and the actual cost thereof to the State.

23. ENCRYPTION AND INFORMATION PRIVACY POLICY

The Contractor shall adhere to the State's Encryption and Information Privacy Policy, which is attached to this Agreement as **Attachment 1** and hereby incorporated into the Agreement by reference, whenever handling data, documents, records, or any other such information, whether in paper or electronic form, that is provided to Contractor by the State. The Contractor shall ensure that each of its personnel having access to information provided by the State is familiar with this policy and that each of them signs and returns to the State a copy of **Attachment 1**.

24. WORKERS' COMPENSATION INSURANCE

The Contractor shall obtain, and keep in force during the term of this Agreement, workers' compensation insurance in conformity with applicable state law.

25. AMERICANS WITH DISABILITIES ACT

In accordance with Government Code section 11135, during the performance of this Agreement, the Contractor shall comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), which prohibits discrimination and denial of access on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the Americans with Disabilities Act.

26. PROPER SOLICITATION OF AGREEMENT

The Contractor warrants, by executing this Agreement, that no person or selling agency has been employed or retained to solicit or secure the Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul the Agreement without liability, paying only for the value of the work actually performed, and to recover the full amount of such commission, percentage, brokerage, or contingent fee.

27. COVENANT AGAINST GRATUITIES

By signing this Agreement, the Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or by any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement. For breach or violation of this warranty, the State may terminate the Agreement immediately, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items that the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this paragraph are not exclusive and are in addition to any other rights and remedies provided by law or under the Agreement.

28. DRUG-FREE WORKPLACE CERTIFICATION

By signing this Agreement, the Contractor certifies, under penalty of perjury under the laws of the State of California, that the Contractor shall comply, during the term of the Agreement, with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, § 8350 et seq.) and shall provide a drug-free workplace by taking all of the following actions:

- a. Publishing a statement that notifies the Contractor's employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifies the actions to be taken against employees for violations, as required by Government Code section 8355, subdivision (a)(1).
- b. Establishing a drug-free awareness program, as required by Government Code section 8355, subdivision (a)(2), to inform the Contractor's employees about all of the following:
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The person's or organization's policy of maintaining a drug-free workplace;
 - (iii) Any available counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations.
- c. Providing, as required by Government Code section 8355, subdivision (a)(3), that each of the Contractor's employees engaged in the performance of this Agreement:
 - (i) Receives a copy of the drug-free policy statement described in **subparagraph a** of this paragraph; and,
 - (ii) Agrees to abide by the terms of the statement as a condition of his or her employment by the Contractor in the performance of the Agreement.

Failure to comply with the requirements of this paragraph is grounds for the suspension of payment by the State under this Agreement or termination of the Agreement or both. The Contractor may be ineligible for award of any future State agreements if the State determines that the Contractor either has made false certification under this paragraph or violated the certification by failing to carry out these requirements.

29. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

Pursuant to Public Contract Code sections 10232 and 10296, the Contractor, by signing this Agreement, certifies under penalty of perjury under the laws of the State of California that no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court that orders the Contractor to comply with an order of the National Labor Relations Board.

30. EXPATRIATE CORPORATIONS

Pursuant to Public Contract Code section 10286.1, subdivision (d), the Contractor, by signing this Agreement, certifies under penalty of perjury under the laws of the State of California that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code sections 10286 and 10286.1, and is eligible to contract with the State of California.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

1. CONTRACTOR PERSONNEL

The individual(s) named in **Exhibit A** of this Agreement as the person(s) authorized to perform services under the Agreement is/are essential to the Agreement. No other individual(s) employed by the Contractor may perform services under the Agreement without the prior written approval of the State. In the event that any individual named in **Exhibit A** as authorized to perform services under the Agreement ceases to be employed by the Contractor or no longer is assigned by the Contractor to perform services under the Agreement, the Contractor immediately shall provide written notice to the State and shall consult with the State regarding a replacement. Prior to seeking approval from the State for any individual not already named in **Exhibit A** to perform services under the Agreement, the Contractor shall provide the State with the name and résumé of that individual for review and approval. If the State declines to approve the replacement of any individual named in **Exhibit A** as authorized to perform services under the Agreement, the State may terminate the Agreement immediately “for cause” as provided in **Exhibit C** of the Agreement. This provision shall not apply to support personnel such as clerical or administrative staff assigned to assist the individual(s) authorized to perform services under the Agreement.

2. SUBCONTRACTORS

Nothing in this Agreement or otherwise shall create any contractual relationship between the State and any subcontractors used by the Contractor to perform services under the Agreement, and no subcontractor shall relieve the Contractor of the Contractor’s responsibilities and obligations under the Agreement. The Contractor agrees to be responsible fully to the State for all acts and omissions of its subcontractors and of the persons the Contractor employs, either directly or indirectly, to perform services under the Agreement. The Contractor’s obligation to pay its subcontractors is an obligation that is entirely independent from the State’s obligation to pay the Contractor. As a result, the State shall have no obligation to pay or enforce the payment of any money to any subcontractor.

3. RECORD RETENTION

Any records obtained by the Contractor from a California State agency or other California public entity under the authority of the California State Auditor’s Office are the exclusive property of the State. Within fourteen (14) days of the Contractor completing the performance of services under this Agreement, the Contractor shall return all originals and copies of such records, including electronic copies. In addition, all records, communications, work papers, and other documents prepared by the Contractor pursuant to the Agreement, including reports, charts, interview notes, and the Contractor’s administrative communications and records relating to the Agreement, shall be deemed the exclusive property of the State and also shall be delivered to the State within fourteen (14) days of the Contractor completing the performance of services under the Agreement.

4. SMALL BUSINESS PARTICIPATION REPORTING REQUIREMENT

As required by Government Code section 14841, if for this Agreement the Contractor made a commitment to achieve small business participation, then the Contractor must within 60 days of receiving final payment under the Agreement report to the State the actual percentage of small business participation that was achieved.

5. DVBE PARTICIPATION REPORTING REQUIREMENT

As required by Government Code section 14841 and Military and Veterans Code section 999.5, subdivision (d), if for this Agreement the Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then the Contractor must within 60 days of receiving final payment under the Agreement certify in a report to the State: (1) the total amount the Contractor received under the Agreement; (2) the name and address of the DVBE(s) that participated in the performance of the Agreement; (3) the amount each DVBE received from the Contractor; (4) that all payments under the Agreement have been made to the DVBE(s);

and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

6. PRIORITY HIRING CONSIDERATIONS

As required by Public Contract Code section 10353, the Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 et seq.

7. CONFIDENTIALITY/NONDISCLOSURE

- a. The Contractor shall protect from unauthorized disclosure all audit and investigative reports and all information in the Contractor's possession that has been gathered or generated in connection with an audit or investigation. Such information shall include financial, statistical, proprietary, market sensitive, highly sensitive, personal, technical, and other information gathered or generated by the Contractor or the State for an audit or investigation. In providing that protection from unauthorized disclosure, the Contractor shall comply with this paragraph, the provisions of the Confidentiality/Nondisclosure Statement attached to this Agreement as **Attachment 2**, and any other reasonable procedural requirements of the State that are provided in writing to the Contractor.
- b. Except as required by law or legal process, the Contractor shall not disseminate or disclose publicly the content of any draft or final audit or investigative report and shall not disseminate or disclose publicly any work papers, records, documents, or other information gathered or generated for any audit or investigation for which the Contractor provided services under this. Notwithstanding this general prohibition against dissemination or disclosure, the Contractor may, with the prior written permission of the State, disclose the content of a final audit or investigative report, specified records, documents, or other information used in support of a final audit or investigative report, or give testimony at a public hearing held by a legislative committee relating to a final audit or investigative report issued regarding an audit or investigation for which the Contractor provided services under the Agreement. The State's grant of permission for the Contractor to make a disclosure or give testimony on a particular occasion shall not be construed to authorize the Contractor to disclose information or give testimony on any other occasion.
- c. With the exception of comments made to personnel of the California State Auditor's Office and other agencies of the State, the Contractor shall not discuss or provide comment to any individual, including any member of the news media, regarding any audit or investigation for which the Contractor provided services under this Agreement without the prior written consent of the State.
- d. The Contractor acknowledges and understands that it is a misdemeanor, as provided in Government Code section 8545.1, for any person or business entity that has contracted with the State, any officer or employee of a person or business entity that has contracted with the State, or any former officer or employee of a person or business entity that has contracted with the State to divulge in any manner not expressly permitted by law the particulars of any record, document, or information the disclosure of which is restricted by law. This restriction includes any record, document, or other information reviewed in connection with an audit that is not used in support of a final audit report.
- e. By signing this Agreement, the Contractor certifies that the Contractor has reviewed the Confidentiality/Nondisclosure Statement attached to the Agreement as **Attachment 2** and agrees to be bound by its provisions. The Contractor also agrees to ensure that each of the Contractor's employees having access to information provided by the State is familiar with the provisions of the Confidentiality / Nondisclosure Statement and that each of them signs and submits to the State a copy of **Attachment 2** prior to performing any services under the Agreement.

8. INDEPENDENCE QUESTIONNAIRE/CONFLICT OF INTEREST DISCLOSURE

The Contractor shall complete a separate Independence Questionnaire/Conflict of Interest Disclosure, attached to this Agreement as **Attachment 3**, for each project the Contractor is requested by the State to perform services. The completed Independence Questionnaire/Conflict of Interest Disclosure shall be submitted to the State prior to performing any services on the project.

9. COMPLIANCE WITH GOVERNMENT AUDITING STANDARDS

The Contractor shall prepare work papers in support of its written report in accordance with current *Government Auditing Standards*, as issued by the Comptroller General of the United States, and shall deliver copies of all such work papers to the State

Auditor's Office as specified in **paragraph 7 of Exhibit C** of this Agreement. The Contractor shall ensure that it gathers and provides sufficient, competent, and relevant evidence in support of its report so that an independent person could review the work and reach the same conclusions that the Contractor reached. Work papers shall include sufficient cross-references and include all documents that support the Contractor's written report.

10. DARFUR CONTRACTING ACT

As required by the Darfur Contracting Act of 2008 (Pub. Contract Code, § 10475 et seq.), the Contractor declares that the Contractor is not a scrutinized company as defined in Public Contract Code section 10476. In support of this declaration, the Contractor has executed the Darfur Contracting Act Certificate which is attached to this Agreement as **Attachment 4** and incorporated into the Agreement.

11. ANTITRUST CLAIMS

The Contractor, by signing this Agreement, certifies that the Contractor will comply with the requirements of Government Code sections 4552 through 4544 set forth below.

- a. As provided in Government Code section 4552, the Contractor will assign to the State all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. § 15 et seq.) or under the Cartwright Act (Bus. & Prof. Code, § 16700 et seq.) arising from the purchase of goods, materials, or services for sale to the State pursuant to this Agreement. Such assignment shall be made and become effective at the time the State tenders final payment to the Contractor.
- b. As provided in Government Code section 4553, if the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under **subparagraph a** of this paragraph, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the State as part of this Agreement price, less the expenses incurred in obtaining that portion of the recovery.
- c. Upon demand in writing by the Contractor, the State shall, within one year from such demand, reassign the cause of action assigned under **subparagraph a** of this paragraph if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (1) the State has not been injured thereby, or (2) the State declines to file a court action for the cause of action.

14. DOMESTIC PARTNERS

By signing this Agreement, the Contractor certifies that the Contractor is in compliance with Public Contract Code section 10295.3, as the Contractor, in providing employee benefits, does not discriminate between employees with spouses and employees with domestic partners, or discriminate between employees with spouses or domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminate between same-sex and different-sex domestic partners of employees or between same-sex and different-sex spouses of employees.

15. CHILD SUPPORT COMPLIANCE

By signing this Agreement, the Contractor acknowledges, pursuant to Public Contract Code section 7110, each of the following:

- a. It is the policy of the State that anyone who enters into a contract with a state agency shall recognize the importance of child and family support obligations and complies fully with all applicable state and federal laws relating to child and family support enforcement, including the disclosure of information and compliance with earnings assignment orders, as required by Family Code section 5200 et seq.
- b. To the best of the Contractor's knowledge, the Contractor is complying fully with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

NOTE: ADDITIONAL TERMS AND CONDITIONS MAY APPLY DEPENDING ON THE PROPOSAL AND/OR THE CONTRACTOR.

ENCRYPTION AND INFORMATION PRIVACY POLICY

1. BACKGROUND

The theft of portable computing devices, such as laptop computers, is a problem for the State and for private industry. Theft and other loss of portable computing equipment can lead to the compromise of confidential, sensitive, or personal data, which in turn can lead to privacy issues and costly follow-up activities.

The State continues to experience situations in which confidential, sensitive, or personal data is compromised when an unencrypted electronic device is lost, stolen, or sabotaged. **Budget Letter 05-32**, issued by the Department of Finance, requires the state agencies under its authority to encrypt any state data that is confidential, sensitive, and personal when it is stored on portable computing devices (including laptops and personal assistive devices) and/or portable electronic storage media (including optical discs and flash memory storage devices). Management Memo 06-12, issued by the Department of General Services, requires all state agencies under its authority to be vigilant to protect personal, sensitive, or confidential information from inappropriate or unauthorized access, use, or disclosure, regardless of media type, and regardless of whether the agency is the custodian or the owner of the information. Protecting personal, sensitive, and confidential data is the responsibility of each individual employee.

Government Code section 8545.2, grants the California State Auditor's Office a very broad right of access to the records of state agencies and other public entities it is authorized to audit or investigate. Additionally, the State Auditor's Office may receive information from the private sector based on an agreement that it will keep the information confidential. Since the State Auditor's Office has "stand in their shoes authority" over auditee information, and at times receives sensitive information from the private sector, the State Auditor's Office must be vigilant in protecting personal, sensitive, and confidential information from inappropriate or unauthorized access, use, or disclosure, regardless of media type. In addition, the State Auditor's Office is the owner of sensitive information, such as personnel records, and also must be vigilant in protecting those records.

This policy is not intended to limit the right of the State Auditor's Office to access the records of public entities. Rather, it is intended to establish protocols to minimize the risk that those records are disclosed inadvertently.

Additionally, because no employee is expected to know every state and federal privacy law, this policy requires the employees of the State Auditor's Office to exercise sound judgment in assessing the sensitive nature of information by asking themselves whether, if the information related to them, they would want it maintained in a secure manner. Where an employee is in doubt about the sensitive nature of information, the employee should err on the side of caution.

2. POLICY

Whether the State Auditor's Office is the custodian or the owner of the confidential information, all employees must ensure the security and integrity of that information. Individuals of non-governmental entities with whom the State Auditor's Office has contracted also are included under this mandate (Civ. Code, § 1798.19). This policy pertains to all information assets, including electronic assets and paper assets. The State Auditor's Office has two positions that have primary responsibility for monitoring and enforcing these policies: the Information Security Officer (manager, Information Technology Unit), and the Information Privacy Officer (legal counsel).

All employees of the State Auditor's Office are responsible for encrypting, or taking equally effective measures, to protect the security of all personal, sensitive, and confidential information that is stored on any portable electronic storage media (including optical discs and flash memory storage devices) and on portable computing devices (including laptop, handheld, and tablet computers).

This policy applies to all state data, including media owned by employees, vendors, contractors, or researchers, regardless of format or medium. Where state-owned confidential, sensitive, and/or personal information exists, it must not be allowed to be stored on any portable equipment or media that is not protected.

Personal, sensitive, or confidential information stored on a shared drive on a local area network (LAN) is not subject to this policy because a drive of this kind is not considered portable.

3. RULES OF CONDUCT

The following is an overview of the rules of conduct the State Auditor's Office follows to protect personal, sensitive, and confidential data:

Responsibilities of all staff:

- All electronic transmittals of personal, sensitive, or confidential information between staff of the State Auditor's Office and auditees or contractors, including editors, must be encrypted.
- Staff must limit the gathering of data to only what is relevant and necessary, redact extraneous information whenever possible, and where appropriate, label work papers as nonpublic.
- Because we often are unaware of whether auditee files contain personal, sensitive, or confidential information at the time we receive them, before personally obtaining electronic data from an auditee, staff should work with the auditee's information technology personnel and the Information Technology Unit of the State Auditor's Office (IT Unit) to ensure that the data is encrypted before staff accepts custody. The State Auditor's Office has external hard drives available for this purpose.
- Staff may work only with secure servers while away from the office.
- Staff must ensure that all hard drives and other storage devices and external media, including flash drives, are encrypted.
- Staff must follow the protocols of the State Auditor's Office for password protection, which requires at least eight characters, including numbers and symbols, and changing passwords at least every forty-two (42) days. Staff should employ "strong" passwords. A strong password conforms to the following parameters:
 - a. It is never shared with anyone else.
 - b. It is over eight (8) characters in length.
 - c. It uses at least one (1) character from each of the following character types:
 - (i) Lower case letter (e.g. a).
 - (ii) Upper case letter (e.g. B).
 - (iii) Number (e.g. 3).
 - (iv) Punctuation mark or symbol (e.g. \$).
 - d. It is easy to remember, but not easily guessable or related to staff (such as a social security number, address, or telephone number).
- Staff assigned to audits that will involve gathering personal and confidential information, as defined below, must meet with the Information Security Officer (ISO) and the Information Privacy Officer (IPO) prior to gathering the data. Investigations and ITAS staff must meet annually with the ISO and IPO.
- An audit team's need to collect personal, confidential, or sensitive information, as defined below, should be discussed at the audit's kick-off meeting and thereafter if an audit requires the late collection of information of that nature.
- All audit staff with access to personal and confidential information must certify in writing, prior to accessing such data, that they are aware of the nature of the data, and have reviewed, understand, and agree to adhere to the Rules of Conduct as specified in this section of the policy. This will occur at the meeting with the ISO and IPO.
- Each audit team leader is responsible for developing and updating a written list of staff (including obtaining the signatures of those staff), who are authorized to access any personal data on an audit.

- Laptops left in hibernation or sleep mode, or not turned off at all, are the most vulnerable to attack. Staff must shut down any computer equipment containing personal, sensitive, or confidential data completely if they will be away from their work area overnight or for several hours during the business day. This requires that employees who leave the office without turning off their computers return to the office to shut down their computers before ending the work day. While in the office, when employees leave their desks for short periods, they must comply with the state policy of locking their computers by simultaneously pressing the Ctrl-Alt-Delete keys. While the office typically is well-attended during the day, staff should be mindful that their coworkers are not responsible for guarding staff computers. Therefore, staff should exercise sound judgment when leaving computer terminals and work stations, particularly when persons who are not employees of the State Auditor's Office are present or may have access to the computers. Additionally, when working out of the office, employees should shut down computers completely while away from their desks for thirty (30) minutes or more.
- Staff must use secure methods to transport data (i.e. carry-on luggage when traveling, or other secure transmittal methods).
- Staff only may use the computer equipment of the State Auditor's Office to receive, store, and transmit electronic information.
- Staff must preserve the "chain of custody" of personal and confidential data, whether it is in an electronic or hard-copy format. Chain of custody means staff constantly is aware of, has carefully documented the location of, and has carefully documented the names of the persons responsible for the data from the time it leaves the custody of an auditee until we have completed our work with the data. Depending on the type of information involved, preserving a chain of custody may require that witnesses be present when information is exchanged or accounted for. It also requires that staff carry-on, not check, the equipment and information of the State Auditor's Office when travelling.
- Staff must transfer records gathered from state agencies and stored on laptops to the network drives of the State Auditor's Office as soon as practicable.
- When working out of the office, staff must secure all work papers and other personal, sensitive, or confidential materials, regardless of format or media, when away from their desks. When working in the office, every employee must secure all materials containing personal and confidential data before leaving the office at night and prior to leaving the office during the business hours when it is possible that the employee may not return to work that day. Additionally, when management has determined that only certain employees will have access to information because of its sensitive nature, staff must ensure that such information is secured whenever it is left unattended by those authorized to access it, even during business hours and while working in the office. Staff should use locked file cabinets, locking foot lockers, and, where available, manual door locks for purposes of securing work papers and materials. Audit team leaders should make use of keys available for team rooms, obtaining them from the receptionist and returning them after they finish using the rooms.
- Any breach of security by the State Auditor's Office or an auditee must be reported immediately to the ISO and IPO. Additionally, upon identifying a potential violation of this policy, staff must notify the ISO and IPO promptly about the potential security risk. When directed to do so, staff, with assistance from legal counsel, must prepare a management letter that discloses the nature of the security risk that the State Auditor's Office has identified.
- Staff, assisted by the IT Unit, must shred all backup and hard-copy personal, sensitive, and confidential materials when they no longer are needed.
- Staff, assisted by the IT Unit, must ensure that personal, sensitive, or confidential data on discs, flash drives, and other external media are overwritten before the discs are discarded. As documentation of this, staff is required to sign and complete Form AUD-310 at the end of an audit assignment.
- Staff, assisted by the IT Unit, is responsible for ensuring that the unused space on their hard drives is overwritten at the end of an audit. Staff is required to sign and complete Form AUD-310 at the end of an audit assignment.

- Staff, assisted by the IT Unit, is responsible for ensuring that the electronic information security systems of the State Auditor's Office limit access to personal, sensitive, or confidential information to those who need access and to those who have a right of access, as appropriate.

Responsibilities of the IT Unit:

- The IT Unit ensures that all computers and hard drives are overwritten when they are discarded.
- The IT staff certifies, in writing, that it is responsible for: (1) implementing the necessary technical means to preserve the security, privacy, and integrity of the information assets of the State Auditor's Office and managing the risks associated with those assets; and (2) acting as a custodian of information, as described by the Department of General Services in the State Administrative Manual (SAM) at section 5315.1, for the agencies under its authority.

Responsibilities of other staff of the State Auditor's Office:

- A deputy state auditor must confirm that a departing employee has certified, in writing, that all confidential, personal, and sensitive data handled by the departing employee has been destroyed, transferred to a supervisor, or otherwise secured properly before the employee proceeds with final checkout.
- Laptops and other electronic devices assigned to staff of the State Auditor's Office, as well as work areas, are subject to periodic inspection by the ISO to ensure compliance with these protocols. As part of the ongoing audit and evaluation process of the State Auditor's Office to ensure adherence to the information privacy program, the ISO or the ISO's delegates perform random inspections of all workspaces and devices.
- The ISO and IPO will investigate all information security breaches and handle any notifications that may be required, as indicated in the information privacy guidelines of the State Auditor's Office.
- The ISO and the IPO will conduct mandatory annual privacy and security training classes for all staff. The State Auditor, or the State Auditor's designee, will certify annually that 100% of the staff has attended the training.

4. DEFINITIONS

For the purposes of this policy:

Personal information is information that identifies or describes an individual, including the name, physical description, home address, home telephone number, education, financial matters, and medical or employment history of the individual, as well as statements made by or attributed to the individual (See Civ. Code, § 1798.3). Personal information is particularly sensitive and must be protected from inappropriate access, use, or disclosure and made accessible to its subjects upon request. Additional examples of personal information are contained in the statutes listed below, which are not intended to constitute an exhaustive list:

- Notice-triggering personal information – specific items of personal information, regardless of media or format, (name plus social security number, driver's license/California identification card number, financial account number, medical information, or health insurance information) that may trigger a requirement to notify individuals if an unauthorized person acquires it (See Civ. Code, § 1798.29);
- Protected Health Information – individually identifiable information regarding a patient's medical history, mental or physical condition, or treatment created, received, or maintained by such organizations as health care payers, pharmaceutical companies, health care providers, health plans, and contractors to these entities, in electronic or physical form. State law requires special precautions to protect such data from unauthorized use, access, or disclosure (See Confidentiality of Medical Information Act, Civ. Code, § 56 et seq. and the Patients' Access to Health Records Act, Health & Saf. Code, §§ 123100-123149.5); and
- Electronic Health Information – individually identifiable health or health billing information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. Federal regulations require state entities that are health plans, health care clearinghouses, or health care providers that conduct electronic transactions ensure the privacy and security of electronic protected health information from unauthorized use, access, or disclosure (See

Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. parts 160 and 164). HIPAA imposes stiff penalties and requires notice to consumers if protected data is accessed by unauthorized persons.

Sensitive information is information maintained by state agencies that requires special precautions to protect it from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information may be either public or confidential. It is information that requires a higher than normal assurance of accuracy and completeness. Thus, the key factor for sensitive information is that of integrity. Typically, sensitive information includes records of agency financial transactions and regulatory actions.

Confidential information is information maintained by state agencies that is exempt from disclosure under the provisions of the California Public Records Act (Gov. Code, §§ 6250-6265) or other applicable state or federal laws. For purposes of this policy only, materials generated by the State Auditor's Office that do not contain any person's personal or confidential data are not confidential.

5. ADDITIONAL RESOURCES

Additional information regarding Information Integrity and Security can be found in the SAM section 4841.2. Information about various classes of information can be found in SAM section 4841.3. You may access the SAM at the website for the Department of Finance (www.dof.ca.gov) or the website for the Department of General Services (www.dgs.ca.gov).

6. COMPLIANCE

The Contractor shall comply with the policy of the California State Auditor's Office on data encryption and information. Please sign the certification below. If you have any questions or concerns regarding this policy, please contact Yasser Lahham, ISO, or Stephanie Ramirez-Ridgeway, IPO.

Company/Firm Name

Print Name

Signature

Date

CONFIDENTIALITY/NONDISCLOSURE STATEMENT

1. CONFIDENTIALITY/NONDISCLOSURE STATEMENT

The undersigned acknowledges and agrees that the content of any personal, technical, or other data or information relating to the State's operations that is made available to the Contractor in carrying out this Agreement, or that become available to the Contractor in carrying out the Agreement, is confidential and shall be protected by the Contractor from unauthorized use or disclosure, as described in the Agreement. In providing that protection, the Contractor shall comply with the Agreement and any other procedural requirements of the State that are provided in writing to the Contractor. In that regard, the undersigned acknowledges and agrees to all of the following:

- a. The records, documents, or information used in support of the work products that are made available to the Contractor pursuant to this Agreement, including all personal, technical, and other data and information used in support of or contained in those work products, are confidential and shall be protected by the Contractor from unauthorized use or disclosure. In providing that protection, the Contractor shall comply with this subdivision and any other procedural requirements of the California State Auditor's Office that are provided in writing to the Contractor.
- b. The Contractor shall not disclose data or disseminate the contents of any preliminary or final work product or record, document, or other information used in support of the work product without the prior written permission of the California State Auditor's Office.
- c. With the exception of comments made about the work product to the State Auditor or the State Auditor's staff, the Contractor shall not make comments to any individual, including any member of the news media regarding the work product, nor shall the Contractor comment on the State Auditor's actions regarding the work product, without the prior written consent of the State Auditor's Office.
- d. The Contractor acknowledges that it is a misdemeanor for the California State Auditor or any employee or former employee of the California State Auditor to divulge in any manner not permitted by law the particulars of any record, document, or information the disclosure of which is restricted by law. This prohibition includes record, document, or information reviewed in connection with the work product that is not used in support of the final work product. This prohibition also applies to any person or business entity and to the employees and former employees of the person or business entity that has assisted the State Auditor with a work product or that has been furnished a draft copy of a work product for comment and review (Gov. Code, § 8545.1).

2. CONFIDENTIALITY/NONDISCLOSURE ACKNOWLEDGMENT (To be completed by each of the Contractor's employees)

The undersigned employee of the Contractor acknowledges that he/she has been provided with a copy of the Confidentiality/Nondisclosure Statement and understands that any record, document, or information, or any draft or final audit or investigative report that the undersigned reviews or produces in connection with providing services to the California State Auditor's Office is subject to the terms of this Statement.

Company/Firm Name

Print Name

Signature

Date

INDEPENDENCE QUESTIONNAIRE / CONFLICTS OF INTEREST DISCLOSURE

Independence Questionnaire for _____
(Type or write Contractor's name.)

Government Auditing Standards issued by the Comptroller General of the United States (2011 Revision) require that auditors be free, both in fact and appearance, from personal and external impairments to independence. To ensure that this independence standard is met, each contractor must disclose any impairment related to the entities or programs that the contractor will be auditing under this Agreement, which are listed below.

Audited Entities: _____

Do you have any of the following personal impairments:

- A family member who is a director, officer, or employee, and is in a position to exert direct and significant control over of the audited entity or program?
- A financial interest that is direct, or is significant/material, though indirect, in the audited entity?
- A decision-making role that could affect the entity's operations?
- Biases about policies or preconceived notions about the programs?
- Seeking employment with the audited entity?

If you responded yes to any of the above, please describe the impairment.

Do you have any external impairment that would restrict your work or interfere with your ability to form independent and objective conclusions? External impairments are external pressures, actual or perceived, from management or employees of the audited entity that would deter the auditor from acting objectively and exercising professional skepticism.

If you responded yes, please describe the impairment.

Signature

Date

DARFUR CONTRACTING ACT CERTIFICATION

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a “scrutinized” company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete only one of the following three paragraphs (via initials for **Paragraph 1** or **Paragraph 2**, or via initials and certification for **Paragraph 3**):

<i>Company/Vendor Name (Printed)</i>	<i>Federal ID Number</i>
<i>Printed Name and Title of Person Initialing (for Options 1 or 2)</i>	

1. _____ We do not currently have, and have not had within the previous three years, business activities or other
Initials operations outside of the United States.

OR

2. _____ We are a scrutinized company as defined in Public Contract Code section 10476, but we have received
Initials written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

OR

3. _____ We currently have, or we have had within the previous three years, business activities or other operations
Initials outside of the United States, but we certify below that we are not a scrutinized company as defined in
+ certification Public Contract Code section 10476.
below

CERTIFICATION For # 3.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY under the laws of the State of California that I am duly authorized to bind the prospective proposer/bidder legally to the clause listed above in # 3.

<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County and State of</i>

PROTECTED HEALTH INFORMATION AND PERSONAL DATA SECURITY POLICY

1. Recitals

- a. Under the terms of the Agreement to which this **Attachment K** is appended, the Contractor and any approved subcontractors and assigned employees of the Contractor, through the State, will have access to certain records, which will require the State and the Contractor to comply with certain requirements set forth in the Health Insurance Portability and Accountability Act (Pub.L. No. 104-191 (Aug. 21, 1996) 110 Stat. 1938) (HIPAA) and its implementing privacy and security regulations at 45 CFR parts 160 and 164 (the HIPAA regulations), and the California Information Practices Act of 1977 (Civ. Code, §§ 1798-1798.78) (the IPA).
- b. Pursuant to the terms of this **Attachment K**, the State and the Contractor wish to comply with applicable law and professional standards in connection with the use and disclosure of "Protected Health Information," as defined in this **Attachment K**, obtained from entities subject to HIPAA and the HIPAA regulations, and the use and disclosure of "personal data," as defined in this **Attachment K**.
- c. "Protected Health Information" or "PHI" means any information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental condition of an individual, the provision of health or dental care to an individual, or any past, present, or future payment for the provision of health and dental care to an individual; and that identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI shall have the meaning given to this term under HIPAA regulations (see 45 CFR § 160.103), as the same may be amended from time to time, and shall be limited to PHI that the State obtained from an entity that is subject to HIPAA or the HIPAA regulations, and which the Contractor then obtains in performance of services hereunder for the State.
- d. "Personal data" means any information regarding an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history, including statements made by, or attributed to, the individual. Personal data shall have the same meaning as "personal information," as that term is defined in the IPA (Civ. Code, § 1798.3, subd. (a)), and shall be limited to the personal data that the Contractor obtains in the performance of services hereunder for the State.
- e. "Security Incident" means the unauthorized access, use, disclosure, modification, or destruction of PHI, or personal data in an electronic or a paper format, covered under this **Attachment K**.
- f. The State and the Contractor desire to protect the privacy and provide for the security of PHI or personal data created, received, maintained, transmitted, used, or disclosed pursuant to this Agreement, in compliance with HIPAA, the HIPAA regulations, the IPA, and other applicable laws.
- g. The terms used in this **Attachment K**, but not otherwise defined, shall have the same meanings as they have in HIPAA, the HIPAA regulations, or the IPA.

2. Agreement

In exchanging information pursuant to this Agreement, the parties agree as follows:

- a. **Permitted Uses and Disclosures of PHI or Personal Data by the Contractor**
 - (i) **Permitted Uses and Disclosures.** Except as otherwise indicated in this **Attachment K**, the Contractor may: use or disclose PHI or personal data only to perform functions, activities, or services specified in this Agreement, for, or on behalf of the State, provided that such use or disclosure would not violate the HIPAA regulations if done by the State or the covered entity that has custody of the protected data.

- b. **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this **Attachment K**, the Contractor may:
- (i) **Use and disclose for management and administration.** Use and disclose PHI or personal data for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor, provided that disclosures are required by law, or the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is or reasonably should be aware that the confidentiality of the information has been breached.
 - (ii) **Provision of Data Aggregation Services.** Use PHI or personal data to provide data aggregation services to the State. Data aggregation means the combining of PHI or personal data created or received by the Contractor on behalf of the State with PHI or personal data received by the Contractor in its capacity as the Contractor of another covered entity, to permit data analyses that relate to the health care operations of the State.
 - (iii) **Violations of Law.** Use and disclose PHI or personal data if the Contractor has a legal obligation to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. section 164.502, subdivision (j)(1), or other applicable law, when the Contractor has a legal obligation to do so.

3. Responsibilities of the Contractor

The Contractor agrees to the following in connection with its services hereunder to the State:

- a. **Nondisclosure.** Not to use or disclose PHI or personal data other than as permitted or required by this **Attachment K** or as required by law.
- b. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI or personal data, including electronic PHI or personal data, that it creates, receives, maintains, uses, or transmits on behalf of the State hereunder, and to prevent the use or disclosure of PHI or personal data other than as provided for by this **Attachment K**. The Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, and which incorporates the requirements of **subparagraph 3c** of this **Attachment K**. The Contractor will provide the State with its current and updated policies. The State acknowledges and agrees that those policies are proprietary and therefore exempt from disclosure under the California Public Records Act (Gov. Code, §§ 6254.15 and 6254, subd. (k)) and that the public interest would not be served by disclosure of such policies (Gov. Code, § 6255). If the State receives any request for disclosure of those policies from any source in any form, including a request under the California Public Records Act, a subpoena, or a discovery request, the State will notify the Contractor in a timely manner, so that the Contractor may take appropriate action to prevent disclosure. The State agrees not to disclose such policies unless required by a court order.
- c. **Security.** To take reasonable steps necessary to ensure the continuous security of all computerized data systems and paper documents containing PHI or personal data. These steps shall include, at a minimum:
 - (i) Complying with all of the data system security precautions listed in this **Attachment K** or in any exhibit attached to this Agreement;
 - (ii) Requiring its employees and subcontractors to comply with the information security practices described in **Budget Letter 05-32**, which is attached hereto and hereby incorporated by reference. Notwithstanding the foregoing, the Contractor's employees and subcontractors shall use encryption to protect PHI and personal data in its laptops and portable electronic storage media and shall use encrypted e-mails whenever sending communications over the Internet that contain PHI or personal data; and
 - (iii) Not leaving PHI or personal data unattended in vehicles, offices, or other places. In the evening, all offices in which PHI or personal data are present should be locked and laptops, portable devices, and paper documents containing PHI or personal data should be locked in file cabinets.

The Contractor shall designate a Security Officer to oversee its data security program, and this Security Officer shall be responsible for carrying out the requirements of this paragraph and for communicating on security matters with the State. The Contractor agrees to provide contact information for the Security Officer to the State and to notify the State in writing of any change of the Security Officer or the Security Officer's contact information.

- d. **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to the Contractor arising from the use or disclosure of PHI or personal data by the Contractor or its subcontractors in violation of the requirements of this **Attachment K**.
- e. **Contractor's Agents.** To ensure that any agents, including subcontractors, to whom the Contractor provides PHI or personal data received from or created or received by the Contractor on behalf of the State hereunder, agree to the same restrictions and conditions that apply to the Contractor with respect to such PHI or personal data, including implementation of reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI or personal data and to incorporate, when applicable, the relevant provisions of this **Attachment K** into each subcontract or sub-award to such agents or subcontractors.
- f. **Availability of Information to the State.** Nothing in this **Attachment K** is intended to limit or otherwise modify the State's right of access to information as provided by Chapter 6.5 (commencing with § 8543) of the Government Code.
- g. **Amendment of PHI or personal data and Access to PHI.** To make any amendment(s) to PHI contained in a Designated Record Set held by the Contractor that the State directs or agrees to pursuant to 45 CFR part 164.526, in the reasonable time and manner designated by the State. Within a reasonable time after a request by the State for access to PHI about an Individual contained in a Designated Record Set, the Contractor shall make available to the State such PHI as required by 45 CFR part 164.524. Within a reasonable time after a request by the State, the Contractor shall make available information related its disclosure of PHI as required by 45 CFR part 164.528.
- h. **Internal Practices.** To make the Contractor's internal practices, books, and records relating to the use and disclosure of PHI or personal data received from the State available to the State or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by the Secretary, for purposes of determining the State's compliance with the HIPAA regulations.
- i. **Documentation of Disclosures.** To document and make available to the State such disclosures of PHI or personal data, and information related to such disclosures, necessary to respond to a proper request for an accounting of disclosures of PHI or personal data, in accordance with 45 CFR part 164.528 or the IPA.
- j. **Notification of Breach.** During the term of this Agreement, the Contractor agrees to do the following with respect to a Security Incident involving PHI or personal data in an electronic or a paper format (hereafter referred to in this subparagraph as a "breach"):
 - (i) **Discovery of Breach.** In the event of a Security Incident involving PHI or personal data in an electronic or a paper format, notify the State in accordance with, and otherwise comply with the requirements of, Civil Code section 1798.29.

Notification shall be provided to the State Contract Manager, State Privacy Officer, and the State Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI or personal data, notification shall be provided by calling the State's Privacy Officer at the telephone number listed in **subparagraph (v)** of this **subparagraph j**.

The Contractor shall take:

- A. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
- B. Any action pertaining to such unauthorized disclosure required by applicable federal and State statutes and regulations.

- (ii) **Investigation of Breach.** To investigate the breach of PHI or personal data immediately. As soon as practical, but not less than within three (3) business days of the discovery or notification of the breach in the security of the data by which PHI or personal data was or is reasonably believed to have been acquired by an unauthorized person, to notify the State Contract Manager, State Privacy Officer and the State Information Security Officer of what data elements were involved and the extent of the data involved in the breach, as the Contractor may reasonably be able to determine within three (3) business days.

As soon as practical, but not less than within seven (7) business days after the confirmation of the existence of the breach, to notify the State Contract Manager, the State Privacy Officer, and the State Information Security Officer of the breach, providing the following:

- A. A description of the unauthorized persons known or reasonably believed to have used or disclosed PHI or personal data improperly (if known to the Contractor);
 - B. A description of where the PHI or personal data is believed to have been transmitted, sent, or utilized improperly;
 - C. A description of the probable causes of the improper use or disclosure.
- (iii) **Report.** To provide a written report of the investigation to the State Contract Manager, the State Privacy Officer, and the State Information Security Officer within fifteen (15) business days of the discovery or notification of the breach in the security of the data by which personal information was or is reasonably believed to have been acquired by an unauthorized person. The report shall include the information specified above, as well as a corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.

If the State discloses all or a portion of the information in the report to an entity from which it obtained the PHI or personal data, the State will clearly indicate, in writing, what information is exempt from disclosure under the California Public Records Act and will request that the entity promptly notify the State and the Contractor, as indicated in this subparagraph, in the event that the entity gets a request for the information (including a request under the California Public Records Act, a subpoena, or any discovery requests) from any third party, and not disclose such information unless required by a court order.

The Contractor and the State recognize and agree that the significant number of meaningless attempts by third parties to, without authorization, access, use, disclose, modify, or destroy PHI or personal data will make a real-time notification requirement of these activities formidable for the Contractor. Therefore, the Parties agree that this Agreement shall constitute notice to the State of unsuccessful attempts to access, use, disclose, modify, or destroy PHI or personal data or interfere with the Contractor's operation of an information system. By way of example, the Parties consider the following to be illustrative of unsuccessful security incidents when they do not result in actual unauthorized access, use, disclosure, modification, or destruction of PHI or personal data, or interference with an information system: (i) pings on the Contractor's firewall; (ii) port scans; (iii) attempts to log on to a system or enter a database with an invalid password or username; (iv) denial-of-service attacks that do not result in a server being taken off-line; and (v) Malware (worms, viruses, etc.).

- (iv) **Notification of Individuals.** To reimburse the State for reasonable costs it incurs in providing notifications of a breach to affected individuals when state or federal law requires such notification and the costs of credit monitoring for affected individuals following such a breach, if consistent with established practices. In order to receive reimbursement, the State must provide the Contractor with a written accounting of the State's actual costs, including pertinent documents, such as copies of receipts or invoices.
- (v) **State Contact Information.** To direct communications to the below-referenced State staff, the Contractor shall initiate contact as provided herein. The State reserves the right to make changes to the contact information below by giving written notice to the Contractor. Those changes shall not require an amendment to this Agreement or **Attachment K**.

State Contract Manager	State Officer	State Information Security Officer
Nicholas Kolitsos Principal Auditor California State Auditor's Office 621Capitol Mall, Suite 1200 Sacramento, CA 95814 Telephone: (916) 445-0255 NicholasK@auditor.ca.gov	Stephanie Ramirez-Ridgeway Senior Staff Counsel California State Auditor's Office 621Capitol Mall, Suite 1200 Sacramento, CA 95814 Telephone: (916) 445-0255 StephanieR@auditor.ca.gov	Yasser Lahham IT Manager California State Auditor's Office 621Capitol Mall, Suite 1200 Sacramento, CA 95814 Telephone: (916) 445-0255 YasserL@auditor.ca.gov

- k. **Employee Training and Discipline.** To train employees performing work under the Agreement on privacy and security requirements and use other reasonable measures to ensure compliance with the requirements of this **Attachment** by the Contractor employees with regard to the use or disclosure of PHI or personal data, and to comply with the applicable requirements of Civil Code section 1798.19.

4. Obligations of the State.

The State agrees to:

- a. **Notice of Privacy Practices.** Provide the Contractor with the Notice of Privacy Practices that the covered entity having custody of the PHI or personal data produces in accordance with 45 Code of Federal Regulations part 164.520, as well as any changes to such notice.
- b. **Permission by Individuals for Use and Disclosure of PHI or personal data.** Provide the Contractor with any changes in, or revocation of, permission by an Individual to use or disclose PHI or personal data, if such changes affect the Contractor's permitted or required uses and disclosures.
- c. **Notification of Restrictions.** Notify the Contractor of any restriction to the use or disclosure of PHI or personal data that the State has agreed to in accordance with 45 Code of Federal Regulations part 164.522, to the extent that such restriction may affect the Contractor's use or disclosure of PHI or personal data.
- d. **Requests Conflicting with HIPAA Rules.** Not request the Contractor to use or disclose PHI or personal data in any manner that would not be permissible under the HIPAA regulations if done by the State.
- e. **Encryption.** Electronic PHI transmitted or otherwise transferred from the State to the Contractor must be encrypted by a process that renders the electronic PHI unusable, unreadable, or indecipherable to unauthorized individuals within the meaning of section 13402 of the Health Information Technology for Economic and Clinical Health Act, Public Law 111-5, and any implementing guidance.
- f. **Minimum Necessary.** The State shall not transfer to the Contractor more than the minimum personal data or PHI necessary for Contractor to perform services for the State under the Agreement.

5. Audits, Inspection and Enforcement

- (a) In the event of a security incident, the Contractor shall make personnel available to the State who are qualified to address detailed inquiries concerning the Contractor's policies and procedures on the privacy and security of personal data or PHI. The Contractor and the State shall meet and discuss, in good faith, a mutually agreeable approach to the inspection by the State, during normal business hours and with Contractor personnel present, of the Contractor's physical practices with regard to the safeguarding of any PHI or personal data received by the Contractor from the State pursuant to this Agreement. Nothing herein authorizes the State to access information of, or relating to, other clients of the Contractor.
- (b) In the event that the State wishes to have any person who is not a State employee participate in such inspection or follow-up thereto, the State will notify the Contractor in writing of the identity and agency or corporate affiliation of such personnel and shall provide the Contractor with a reasonable period of time (but not less than three (3) business days) in

which the Contractor may object, in writing, to the participation of such personnel and the reasons therefore, including the fact that such personnel are, or are affiliated or employed by, a business competitor of the Contractor. The State agrees that it will not include personnel objected to by the Contractor in any such inspection or follow-up. The State also agrees that any non-State employee who participates in the inspection, or any follow-up thereto, shall be required to sign a Non-Disclosure Agreement in a form satisfactory to the Contractor and to provide a copy of the same to the Contractor before participating in the inspection, or follow-up thereto. The Contractor shall mitigate promptly, to the extent practicable, any material violation of any provision of this Attachment, and shall, upon request, confirm to the State Privacy Officer that the mitigation has been implemented. The State agrees that any paper or electronic records regarding the Contractor's mitigation efforts are confidential and exempt from disclosure under the California Public Records Act. If the State receives any request for disclosure of this information from any source in any form, including under the California Public Records Act, the Contractor may take appropriate action to prevent disclosure. The State agrees not to disclose such policies unless required by a court order.

- (c) The fact that the State inspects, or fails to inspect, or has the right to inspect, the Contractor's computers under this subparagraph does not relieve the Contractor of its responsibility to comply with this Agreement, nor does the State's:
 - (i) Failure to detect or;
 - (ii) Detection, but failure to notify the Contractor or require the Contractor's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of the State's enforcement rights under this Agreement and this **Attachment**.

6. Termination

- a. **Termination for Cause.** Upon the State gaining knowledge of a material breach of this **Attachment** by the Contractor, the State shall:
 - (i) Provide an opportunity for the Contractor to cure the breach or end the violation and terminate this Agreement if the Contractor does not cure the breach or end the violation within the time specified by State;
 - (ii) Immediately terminate this Agreement if the Contractor has breached a material term of this **Attachment** and cure is not possible; or
 - (iii) If neither cure nor termination is feasible, report the violation to the Secretary of the U.S. Department of Health and Human Services.
- b. **Judicial or Administrative Proceedings.** The Contractor shall notify the State if it is named as a defendant in a criminal proceeding for a violation of HIPAA. The State may terminate this Agreement if the Contractor is found guilty of a criminal violation of HIPAA. The State may terminate this Agreement if a finding or stipulation that the Contractor has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Contractor is a party or has been joined.
- c. **Effect of Termination.** Upon termination or expiration of this Agreement for any reason, the Contractor shall return or destroy all other copies of PHI or personal data received from the State hereunder (or created or received by the Contractor on behalf of the State) that the Contractor still maintains in any form, and shall retain no copies of such PHI or personal data or, if return or destruction is not feasible, shall continue to extend the protections of this **Attachment** to such information, and shall limit further use of such PHI or personal data to those purposes that make the return or destruction of such PHI or personal data infeasible. This provision shall apply to PHI or personal data that is in the possession of subcontractors or agents of the Contractor. The State acknowledges that *Government Auditing Standards* may prohibit the Contractor from returning or destroying PHI or personal data in its work papers.

7. Miscellaneous Provisions

- a. **Disclaimer.** The State makes no warranty or representation that compliance by the Contractor with this **Attachment**, HIPAA, or the HIPAA regulations will be adequate or satisfactory for the Contractor's own purposes or that any information in the Contractor's possession or control, or transmitted or received by the Contractor, is or will be

secure from unauthorized use or disclosure. The Contractor is responsible solely for all decisions made by the Contractor regarding the safeguarding of PHI or personal data.

- b. **Amendment.** The parties acknowledge that federal and state laws relating to electronic data security and privacy are evolving rapidly and that amendment of this **Attachment** may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA regulations, and other applicable laws relating to the security or privacy of PHI or personal data. Upon the State's request, the Contractor agrees to enter into negotiations promptly with the State concerning an amendment to this **Attachment** embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA regulations, and other applicable laws. The State may terminate this Agreement upon thirty (30) days written notice in the event:
 - (i) The Contractor does not enter into negotiations promptly to amend this **Attachment** when requested by the State pursuant to this subparagraph; or
 - (ii) The Contractor does not enter into an amendment providing assurances regarding the safeguarding of PHI or personal data that the State in its sole discretion deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- c. **Assistance in Litigation or Administrative Proceedings.** Without waiving any rights or defenses, the Contractor agrees to make its personnel available, at the billing rates applicable to the services performed by the Contractor under this Agreement, to testify or otherwise provide assistance in the event that litigation or administrative proceedings are commenced against the State, based on a claimed violation of HIPAA, a HIPAA regulation or other law relating to security or privacy, and such claimed violation allegedly involves inaction or action by the Contractor, except where the Contractor or its subcontractor, employee, or agent is a named adverse party or where cooperation would impair the Contractor's independence.
- d. **No Third-Party Beneficiaries.** Nothing expressed or implied in the terms and conditions of this **Attachment** is intended to confer, nor shall anything herein confer, upon any person other than the State or the Contractor and their respective successors or assignees, any rights, remedies, obligations, or liabilities whatsoever.
- e. **Interpretation.** The terms and conditions in this **Attachment** shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations, and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this **Attachment** shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA regulations.
- f. **Regulatory References.** A reference in the terms and conditions of this **Attachment** to a section in the HIPAA regulations means the section as in effect or as amended.
- g. **Survival.** The respective rights and obligations of the Contractor under **subparagraph 7c** of this **Attachment** shall survive the termination or expiration of this Agreement.
- h. **No Waiver of Obligations.** No change, waiver, or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
- i. **Integration.** This **Attachment** embodies and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments and understandings pertaining to the subject matter hereof.
- j. **Effective Date.** This **Attachment** is effective upon the date of its execution by authorized representatives of both the State and the Contractor and shall remain in effect for the duration of the Agreement to which it is appended.

BUDGET LETTER

		NUMBER: 05-32
SUBJECT: INFORMATION TECHNOLOGY SECURITY POLICY - ENCRYPTION ON PORTABLE COMPUTING DEVICES	DATE ISSUED: November 14, 2005	
REFERENCES: STATE ADMINISTRATIVE MANUAL SECTIONS 4841.2 THROUGH 4841.7, CALIFORNIA CIVIL CODE SECTION 1798.29, 45 C.F.R. Section 160.103, BL 05-08	SUPERSEDES:	

TO: Agency Secretaries
Department Directors
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

Note: Budget Officers are requested to forward a copy of this Budget Letter (BL) to your departments' Information Security Officers (ISOs) and departments' Chief Information Officers (CIOs).

BACKGROUND

The Department of Finance (Finance) is responsible for establishing the framework for the state's information technology (IT) security policies and activities, and for IT security oversight. This BL introduces policy concerning the encryption of specific types of data on portable computing devices and portable electronic storage media. Attachment I contains the text of the new policy.

Theft of portable computing devices, such as laptop computers, is a problem in the state and in private industry. Theft and other loss of portable computing equipment can lead to compromise of confidential, sensitive, or personal data, which in turn can lead to privacy issues and costly follow-up activities.

California Civil Code 1798.29 requires that state departments disclose breaches in which electronically stored, unencrypted personal information may have been acquired. Section (e) of Civil Code 1798.29 is quoted below, and contains this law's definition of "personal information."

- (e) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or the data elements are not encrypted:
- (1) Social security number.
 - (2) Driver's license number or California Identification Card number.
 - (3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

Federal statute for the Health Insurance Portability and Accountability Act (HIPAA) requires special handling of Protected Health Information, which is defined in 45 C.F.R Section 160.103.

For the purpose of this policy, and as described in State Administrative Manual (SAM) Section 4841.3, Protected Health Information is personal information and must be safeguarded accordingly.

State policy already requires that departments protect data and equipment, per SAM Section 4841.5. However, the state continues to experience situations in which confidential, sensitive, or personal data is compromised when an unencrypted electronic device is lost or stolen. The policy introduced in this BL requires encryption of state data that is confidential, sensitive, and personal when it is stored on portable computing devices (including, but not limited to, laptops and notebook computers) and/or portable electronic storage media (including CDs and thumb drives).

The policy applies to all portable computing devices or portable electronic storage media that contain state data, including equipment owned by employees, vendors, contractors, or researchers. Where state-owned confidential, sensitive, and/or personal data exists, it must not be allowed on any portable equipment or media that is not protected. The policy does not apply to mainframe and server tapes at this time, but may be revised at a future date to apply to these as well.

State policy for data classification is in SAM Section 4841.3, and defines confidential, sensitive, and personal information. It also discusses agency responsibilities for identifying what data fits into these categories. BL 05-08 released June 3, 2005, modified policy in SAM Section 4841.3, significantly expanding existing data classification criteria to be consistent with current laws. A copy of the revised SAM Section 4841.3 released with BL 05-08 is included in this BL as Attachment II.

When the word "agency" is used in the policy and within this BL, the meaning is consistent with the definition in SAM Section 4819.2: "When used lower case (agency), refers to any office, department, board, bureau, commission or other organizational entity within state government."

POLICY DESCRIPTION

Currently each agency is required to classify data and to maintain the integrity and security of its automated information, per SAM Sections 4841.2 through 4841.7.

This BL announces new policy in SAM Section 4841.2 that requires the following: portable computing devices and portable electronic storage media that contain confidential, personal, or sensitive information must use encryption or equally strong measures to protect the data while it is being stored. An advance copy of the new policy incorporated into SAM Section 4841.2 is included as Attachment I.

Not all portable computing devices or electronic storage media contain confidential, personal, or sensitive information. Only those that do contain this information require encryption under this policy.

Departments/agencies should look at the results of their data classification efforts to determine which equipment and storage media must be encrypted.

To protect data and minimize the need for encryption, here are some ideas:

- Avoid storing confidential, personal, or sensitive information on laptops and portable devices.
- Classify your data and make sure you know what state data is on portable devices and storage media. This includes state data on employee-owned and vendor-owned devices and storage media.
- Portable computing devices are stolen more often than portable electronic storage media (CDs, thumb drives, and the like). If your agency must transport confidential, sensitive, or personal data for state business, consider putting it on encrypted electronic storage media instead of on the computing equipment, and carry the storage media separately.
- Minimize the number of confidential, sensitive, or personal records that are carried on portable devices; carry only what is essential for current business and remove data when its business use is over.

If you can't eliminate the need for encryption, here are some tips:

- When purchasing new laptops, notebooks, and other portable computing devices, be sure to include encryption software in the purchase if there is any chance that the equipment will eventually hold data that must be protected.
- If you must carry confidential, personal, or sensitive information, always encrypt it during storage.
- If encryption is not possible, use an equally effective measure to safeguard the data and have this solution approved in writing by the agency ISO.
- Please note that if your agency uses a department-approved equally effective measure, it may not be as strong as encryption. Please also note that the law currently cites encryption as the only technology that exempts departments from a privacy notification in the case of loss or theft of a device with protected information.

This policy is effective immediately and agencies must comply within four months after the publication of this BL. If your agency is not able to fully implement this policy by that time the agency must notify the State Information Security Office in writing and provide an expected compliance date.

CONTACTS AND QUESTIONS

You may call the State ISO Office at (916) 445-5239 if you have questions about this BL.

/s/ Greg Rogers Greg

Assistant Program Budget Manager

Attachments

Advance Copy of Changes to State Administrative Manual Section 4841.2

New policy appears in bold italics in subsection II.E.7

INFORMATION INTEGRITY AND SECURITY

Each agency must provide for the integrity and security of its information assets by:

- I. Identifying all automated files and data bases for which the agency has ownership responsibility (see SAM Section 4841.4);
- II. Ensuring that responsibility for each automated file or data base is defined with respect to:
 - A. The designated owner of the information within the agency,
 - B. Custodians of information, and
 - C. Users of the information;
 - D. Ensuring that each automated file or database is identified as to its information class (see SAM Section 4841.3) in accordance with law and administrative policy;
 - E. Establishing appropriate policies and procedures for preserving the integrity and security of each automated file or data base including:
 1. Agreements with non-state entities, to cover, at a minimum, the following;
 - a. Appropriate levels of confidentiality for the data based on data classification (see SAM Section 4841.3);
 - b. Standards for transmission and storage of the data, if applicable;
 - c. Agreements to comply with all State policy and law regarding use of information resources and data;
 - d. Signed confidentiality statements;
 - e. Agreement to apply security patches and upgrades, and keep virus software up-to-date on all systems on which data may be used; and
 - f. Agreement to notify the State data owners promptly if a security incident involving the data occurs.
 2. Identifying computing systems that allow dial-up communication or Internet access to sensitive or confidential information and information necessary for the support of agency critical applications.
 3. Auditing usage of dial-up communications and Internet access for security violations;
 4. Periodically changing dial-up access telephone numbers;
 5. Responding to losses, misuse, or improper dissemination of information;
 6. Requiring that if a data file is downloaded to a mobile device or desktop computer from another computer system, the specifications for information integrity and security which have been established for the original data file must be applied in the new environment.
 7. **Requiring encryption, or equally effective measures, for all personal, sensitive, or confidential information that is stored on portable electronic storage media (including, but not limited to, CDs and thumb drives) and on portable computing devices (including, but not limited to, laptop and notebook computers). This policy does not apply to mainframe and server tapes.**

For the purpose of this policy, the terms "confidential information" and "sensitive information" are defined in SAM Section 4841.3. For the purpose of this policy, "personal information" is defined in three categories in SAM 4841.3 as follows:

- **notice-triggering information (Civil Code Section 1798.29),**
- **protected health information (45 C.F.R. Section 160.103), and**
- **electronic health information (45 C.F.R. Section 160.103).**

Alternatives to encryption must be reviewed on a case-by-case basis and approved in writing by the agency ISO.

- III. Establishing appropriate departmental policies and procedures to protect and secure IT infrastructure, including
- A. Technology upgrade policy, which includes, but is not limited to, operating system upgrades on servers, routers, and firewalls. The policy must address appropriate planning and testing of upgrades, in addition to departmental criteria for deciding which upgrades to apply.
 - B. Security patches and security upgrade policy, which includes, but is not limited to, servers, routers, desktop computers, mobile devices, and firewalls. The policy must address application and testing of the patches and/or security upgrades, in addition to departmental criteria for deciding which patches and security upgrades must be applied, and how quickly.
 - C. Firewall configuration policy, which must require creation and documentation of a baseline configuration for each firewall, updates of the documentation for all authorized changes, and periodic verification of the configuration to ensure that it has not changed during software modifications or rebooting of the equipment.
 - D. Server configuration policy, which must clearly address all servers that have any interaction with Internet, extranet, or intranet traffic. The policy must require creation and documentation of a baseline configuration for each server, updates of the documentation for all authorized changes, and periodic checking of the configuration to ensure that it has not changed during software modifications or rebooting of the equipment.
 - E. Server hardening policy, which must cover all servers throughout the department, not only those that fall within the jurisdiction of the department's IT area. The policy must include the process for making changes based on newly published vulnerability information as it becomes available. Further, the policy must address, and be consistent, with the department's policy for making security upgrades and security patches.
 - F. Software management and software licensing policy, which must address acquisition from reliable and safe sources, and must clearly state the department's policy about not using pirated or unlicensed software.
- IV. Each agency must establish policy to ensure that the use of peer-to-peer technology for any non-business purpose is prohibited. This includes, but is not limited to, transfer of music, movies, software, and other intellectual property.

Business use of peer-to-peer technologies must be approved by the CIO and ISO.

Each state data center must carry out these responsibilities for those automated files, databases, and computer systems for which it has ownership responsibility. See SAM Sections 4841.4 and 4841.5.

Oversight responsibility at the agency level for ensuring the integrity and security of automated files, databases, and computer systems must be vested in the agency Information Security Officer.

The head of each agency is responsible for compliance with the policy in this section. See SAM Section 4841.

State Administrative Manual Section 4841.3

CLASSIFICATION OF INFORMATION

The state's automated files and databases are essential public resources that must be given appropriate protection from unauthorized use, access, disclosure, modification, loss, or deletion. Every agency must classify each file and database using the following classification structure:

- I. Public Information – information maintained by state agencies that is not exempt from disclosure under the provisions of the California Public Records Act (Government Code Sections 6250-6265) or other applicable state or federal laws; and
- II. Confidential Information – information maintained by state agencies that is exempt from disclosure under the provisions of the California Public Records Act (Government Code Sections 6250-6265) or other applicable state or federal laws.

Sensitive Information and Personal Information, as defined below, may occur in Public Information and/or Confidential Information. Files and databases containing sensitive and/or personal information require special precautions to prevent inappropriate disclosure. When sensitive or personal information is contained in public records, care must be taken to protect it from inappropriate disclosure.

While the need for the agency to protect data from inappropriate disclosure is important, so is the need for the agency to take necessary action to preserve the integrity of the data. Agencies must develop and implement procedures for access, handling, and maintenance of personal and sensitive information.

1. Sensitive Information – information maintained by state agencies that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information may be either public or confidential. It is information that requires a higher than normal assurance of accuracy and completeness. Thus the key factor for sensitive information is that of integrity. Typically, sensitive information includes records of agency financial transactions and regulatory actions.
2. Personal Information – information that identifies or describes an individual as defined in, but not limited by, the statutes listed below. This information must be protected from inappropriate access, use, or disclosure and must be made accessible to data subjects upon request:
 - a. Notice-triggering personal information – specific items or personal information (name plus Social Security Number, driver's license/California identification card number, or financial account number) that may trigger a requirement to notify individuals if it is acquired by an unauthorized person. See Civil Code Sections 1798.29 and 1798.3;
 - b. Protected Health Information – individually identifiable information created, received, or maintained by such organizations as health care payers, health care providers, health plans, and contractors to these entities, in electronic or physical form. State law requires special precautions to protect from unauthorized use, access or disclosure. See Confidentiality of Medical Information Act, Civil Code Section 56 et seq. and the Patients' Access to Health Records Act, Health and Safety Code Sections 123100-123149.5; and,
 - c. Electronic Health Information – individually identifiable health information transmitted by electronic media or maintained in electronic media. Federal regulations require state entities that are health plans, health care clearinghouses, or health care providers that conduct electronic transactions to ensure the privacy and security of electronic protected health information from unauthorized use, access, or disclosure. See Health Insurance Portability and Accountability Act, 45 C.F.R. parts 160 and 164.

Subject to executive management review, the agency unit that is the designated owner of a file or database is responsible for making the determination as to whether that file or database should be classified as public, or confidential, and whether it contains personal, and/or sensitive data. The owner of the file or data base is responsible for defining special security precautions that must be followed to ensure the integrity, security, and appropriate level of confidentiality of the information. See SAM Section 4841.5.

PROPOSAL/PROPOSER CERTIFICATION SHEET

This Proposal/Proposer Certification Sheet must be signed and returned along with all the "required attachments" as an entire package with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

An Unsigned Proposal/Proposer Certification Sheet May Be Cause For Rejection.

1. Company Name	2. Telephone Number ()	2a. Fax Number ()
3. Address		
Indicate your organization type:		
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership	6. <input type="checkbox"/> Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
9. Indicate applicable license and/or certification information:		
10. Proposer's Name (Print)	11. Title	
12. Signature	13. Date	
14. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:		
a. California Small Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____		
b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____		
NOTE: A copy of your Certification is required to be included if either of the above items is checked " Yes ". Date application was submitted to OSBCR, if an application is pending:		

BIDDER DECLARATION

State of California—Department of General Services, Procurement Division
GSPD-05-105 (EST 8/05)

Solicitation Number _____

BIDDER DECLARATION

1. Prime bidder information (**Review attached Bidder Declaration Instructions prior to completion of this form**):
 - a. Identify current California certification(s) (**MB, SB, SB/NVSA, DVBE**): _____ or **None** ____ (If "None", go to Item #2)
 - b. Will subcontractors be used for this contract? **Yes** ____ **No** ____ (If yes, indicate the distinct element of work your firm will perform in this contract e.g., list the proposed products produced by your firm, state if your firm owns the transportation vehicles that will deliver the products to the State, identify which solicited services your firm will perform, etc.). Use additional sheets, as necessary.

 - c. If you are a California certified DVBE:
 - (1) Are you a broker or agent? **Yes** ____ **No** ____
 - (2) If the contract includes equipment rental, does your company own at least 51% of the equipment provided in this contract (quantity and value)? **Yes** ____ **No** ____ **N/A** ____

2. If no subcontractors will be used, skip to certification below. Otherwise, list all subcontractors for this contract. (Attach additional pages if necessary):

Subcontractor Name, Contact Person, Phone Number & Fax Number	Subcontractor Address & Email Address	CA Certification (MB, SB, DVBE or None)	Work performed or goods provided for this contract	Corresponding % of bid price	Good Standing?	51% Rental?

CERTIFICATION: By signing the bid response, I certify under penalty of perjury that the information provided is true and correct.

Page ____ of ____

BIDDER DECLARATION Instructions

All prime bidders (the firm submitting the bid) must complete the Bidder Declaration.

- 1.a.** Identify all current certifications issued by the State of California. If the prime bidder has no California certification(s), check the line labeled "None" and proceed to Item #2. If the prime bidder possesses one or more of the following certifications, enter the applicable certification(s) on the line:
- Microbusiness (MB)
 - Small Business (SB)
 - Nonprofit Veteran Service Agency (NVSA)
 - Disabled Veteran Business Enterprise (DVBE)

- 1.b.** Mark either "Yes" or "No" to identify whether subcontractors will be used for the contract. If the response is "No," proceed to Item #1.c. If "Yes," enter on the line the distinct element of work contained in the contract to be performed or the goods to be provided by the prime bidder. Do not include goods or services to be provided by subcontractors.

Bidders certified as MB, SB, NVSA, and/or DVBE must provide a commercially useful function as defined in Military and Veterans Code Section 999 for DVBEs and Government Code Section 14837(d)(4)(A) for small/microbusinesses.

Bids must propose that certified bidders provide a commercially useful function for the resulting contract or the bid will be deemed non-responsive and rejected by the State. For questions regarding the solicitation, contact the procurement official identified in the solicitation.

Note: A subcontractor is any person, firm, corporation, or organization contracting to perform part of the prime's contract.

- 1.c.** This item is only to be completed by businesses certified by California as a DVBE.
- (1) Declare whether the prime bidder is a broker or agent by marking either "Yes" or "No." The Military and Veterans Code Section 999.2 (b) defines "broker" or "agent" as a certified DVBE contractor or subcontractor that does not have title, possession, control, and risk of loss of materials, supplies, services, or equipment provided to an awarding department, unless one or more of the disabled veteran owners has at least 51-percent ownership of the quantity and value of the materials, supplies, services, and of each piece of equipment provided under the contract.
 - (2) If bidding rental equipment, mark either "Yes" or "No" to identify if the prime bidder owns at least 51% of the equipment provided (quantity and value). If **not** bidding rental equipment, mark "N/A" for "not applicable."

- 2.** If no subcontractors are proposed, do not complete the table. Read the certification at the bottom of the form and complete "Page ____ of ____" on the form.

If subcontractors will be used, complete the table listing all subcontractors. If necessary, attach additional pages and complete the "Page ____ of ____" accordingly.

2. (continued) Column Labels

Subcontractor Name, Contact Person, Phone Number & Fax Number—List each element for all subcontractors.

Subcontractor Address & Email Address—Enter the address and if available, an Email address.

CA Certification (MB, SB, NVSA, DVBE or None)—If the subcontractor possesses a current State of California certification(s), verify on this website (www.eprocure.pd.dgs.ca.gov).

Work performed or goods provided for this contract—Identify the distinct element of work contained in the contract to be performed or the goods to be provided by each subcontractor. Certified subcontractors must provide a commercially useful function for the contract. (See paragraph 1.b above for code citations regarding the definition of commercially useful function.) If a certified subcontractor is further subcontracting a greater portion of the work or goods provided for the resulting contract than would be expected by normal industry practices, attach a separate sheet of paper explaining the situation.

Corresponding % of bid price—Enter the corresponding percentage of the total bid price for the goods and/or services to be provided by each subcontractor. Do not enter a dollar amount.

Good Standing?—Provide a response for each subcontractor listed. Enter either "Yes" or "No" to indicate that the prime bidder has verified that the subcontractor(s) is in good standing for all of the following:

- Possesses valid license(s) for any license(s) or permits required by the solicitation or by law
- If a corporation, the company is qualified to do business in California and designated by the State of California Secretary of State to be in good standing
- Possesses valid State of California certification(s) if claiming MB, SB, NVSA, and/or DVBE status

51% Rental?—This pertains to the applicability of rental equipment. Based on the following parameters, enter either "N/A" (not applicable), "Yes" or "No" for each subcontractor listed.

Enter "**N/A**" if the:

- Subcontractor is NOT a DVBE (regardless of whether or not rental equipment is provided by the subcontractor) or
- Subcontractor is NOT providing rental equipment (regardless of whether or not subcontractor is a DVBE)

Enter "**Yes**" if the subcontractor is a California certified DVBE providing rental equipment and the subcontractor owns at least 51% of the rental equipment (quantity and value) it will be providing for the contract.

Enter "**No**" if the subcontractor is a California certified DVBE providing rental equipment but the subcontractor does NOT own at least 51% of the rental equipment (quantity and value) it will be providing.

Read the certification at the bottom of the page and complete the "Page ____ of ____" accordingly.

STD 830 (REV. 7/07) CDPH (FRONT)

**TARGET AREA CONTRACT PREFERENCE ACT
PREFERENCE REQUEST FOR GOODS AND SERVICES SOLICITATIONS**

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES
DISPUTE RESOLUTION AND PREFERENCE PROGRAMS

Complete this form to request TACPA preferences for this bid.

SOLICITATION NUMBER	AGENCY/DEPT
	California Department of Public Health (CDPH)

Target Area Contract Preference Act (TACPA) preferences are available only if the lowest responsible bid and resulting contract exceeds \$100,000. Your firm must be California based. You must certify, under penalty of perjury, to perform either 50% of the labor hours required to complete a contract for GOODS, or 90% of the labor hours required to complete a contract for SERVICES in the Target Area Contract Preference Act zone(s) you identify in Section I. The TACPA provides bid selection preferences of 5% for eligible worksites (Section I), and a 1% to 4% for hiring eligible workforce employees (Section II). To identify Census Tract and Block Group Numbers contact the city or county Planning Development Commission for the intended worksite or visit the U.S. Census bureau website (www.census.gov).

Section I. 5% WORKSITE(S) PREFERENCE ELIGIBILITY AND LABOR HOURS

To the bidder: Preference may be denied for failure to provide the following required information:

- (1) Identify each firm in the supply chain, including yours, that will perform any of the contract labor hours required to complete this contract. Identify your role in the distribution process. Transportation hours performed by each carrier must be reported separately.
- (2) List complete addresses for each firm named below.
- (3) Report projected number of labor hours required to perform the contract for each firm.
- (4) Enter the CENSUS TRACT number.
- (5) Enter the BLOCK GROUP number.
- (6) Identify the California designated TACPA worksite(s) by entering the proper Criteria letter A, B, C, D, E, F (See reverse for instructions) in the Criteria column.

(1) FIRM NAME and CONTRACT FUNCTION: (Manufacturing, transportation, shipping, warehousing, admin., etc.) Use additional pages, as needed, to fully report worksite information.	(2) WORKSITE ADDRESS Street Address, City, County, State, Zip Code, Phone Number	(3) PROJECTED LABOR HOURS	COMPLETE FOR ALL SITES LOCATED WITHIN A TACPA PREFERENCE AREA(S)		
			(4) TRACT NUMBER	(5) BLOCK NUMBER	(6) CRITERIA (A - F)
TOTAL PROJECTED LABOR HOURS:					

Section II. 1% TO 4% WORKFORCE PREFERENCE

Bidders must qualify their firm's worksite eligibility to request an additional 1% to 4% workforce preference in Section II.

- ☐ I request a 1% preference for hiring eligible persons to perform 5 to 9.99% of the total contract labor hours.
- ☐ I request a 2% preference for hiring eligible persons to perform 10 to 14.99% of the total contract labor hours.
- ☐ I request a 3% preference for hiring eligible persons to perform 15 to 19.99% of the total contract labor hours.
- ☐ I request a 4% preference for hiring eligible persons to perform 20% or more of the total contract labor hours.

Section III. CERTIFICATION FOR WORKSITE AND WORKFORCE PREFERENCES

To receive TACPA preferences, the following certification must be completed and signed by the Bidder.

I hereby certify under penalty of perjury that the bidder (1) is a California based company as defined in the TACPA regulations; (2) shall ensure that at least 50% of the labor hours required to complete a contract for Goods, or 90% of the labor hours to complete a Services contract shall be performed at the designated TACPA worksite(s) claimed in Section I; (3) shall hire persons who are TACPA eligible employees to perform the specified percent of total contract labor hours as claimed in Section II; (4) has provided accurate information on this request. I understand that any person furnishing false certification, willfully providing false information or omitting information, or failing to comply with the TACPA requirements is subject to sanctions as set forth in the statutes.

BIDDER'S NAME & TITLE	BIDDER'S SIGNATURE	PHONE NUMBER ()	DATE
		FAX NUMBER ()	

STD 830 (REV. 1/2005), CDPH (REVERSE)

**TARGET AREA CONTRACT PREFERENCE ACT
PREFERENCE REQUEST FOR GOODS AND SERVICES SOLICITATIONS**

Target Area Contract Preference Act References and Instructions

The Target Area Contract Preference Act (TACPA), GC §4530 et seq. and 2 CCR §1896.30 et seq., promotes employment and economic development at designated distressed areas by offering 5% Worksite and 1% to 4% Workforce bidding preferences in specified state contracts. The TACPA preferences do not apply to contracts where the worksite is fixed by the contract terms. These preferences only apply to bidders who are California based firms, and only when the lowest responsible bid and resulting contract exceed \$100,000. Bidders must certify, under penalty of perjury to perform either 50% (for GOODS contracts) or 90% (for SERVICES contracts) of the labor hours required to complete this contract in the eligible TACPA area worksite(s) identified in Section I on the reverse side of this page. TACPA preferences are limited to 9%, or a maximum of \$50,000 per bid. In combination with any other preferences, the maximum limit is 15% of the lowest responsible bid; and, in no case more than \$100,000 per bid.

**Section I
Worksite Preference Eligibility and Labor Hours**

Bidders must identify at least one eligible TACPA worksite by entering the criteria letter A, B, C, D, E or F in the "Criteria" column and enter the "Census Tract" and "Block Group" Numbers to be Eligible for the preference. You must name each and every firm or site where contract labor hours will be worked. Preference requests may be denied if an eligible California TACPA worksite is not identified, or all firms performing contract labor hours are not identified. Enter one of the following "Criteria" letters to identify each TACPA worksite on the reverse page:

- A. The firm is located in a California eligible distressed area(s).
- B. The firm will establish a worksite(s) in a California eligible distressed area(s).
- C. The firm is in a census tract with a contiguous boundary adjacent to a California eligible distressed area.
- D. The firm will establish a worksite(s) located directly adjoining a valid TACPA census tract/block that, when attached to the California eligible distressed areas(s), forms a contiguous boundary.
- E. The bidder will purchase the contract goods from a manufacturer(s) in a California eligible distressed area(s). **This option applies to solicitation for GOODS only.**
- F. The bidder will purchase contract goods from a manufacturer(s) in directly adjoining census tract blocks that when attached to the California eligible distressed area(s) forms a contiguous boundary. **This option applies to solicitations for GOODS only.**

Enter labor hours for each listed firm and site. The hours shall be reasonable, shall only include the labor hours necessary and required to complete the contract activities. Artificially increasing hours at a claimed TACPA worksite, or understating labor hours worked outside the eligible worksite may result in a denied preference request. Do not include machine time and non-labor time when projecting contract labor hours. Report all bidder work hours and those of any subcontractor performing this contract. All transportation hours must be reported for each carrier separately and must not be combined or included with hours for manufacturing processing, or administration, or at any eligible TACPA site. Failure to list all the labor hours to be performed at the reportable sites will result in a denial of this preference request.

The bidder must explain, by activity, their firm's projected contract labor hours by completing and signing the *Bidder's Summary* form (included with this solicitation).

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES
DISPUTE RESOLUTION AND PREFERENCE PROGRAMS

If supplying goods, the bidder must also provide a completed and signed *Manufacturer's Summary* form (included with this solicitation) that specifies the number of projected labor hours necessary to make the product(s).

**Section II
Workforce Preferences**

Eligibility to request a workforce preference is based on the bidder first claiming and receiving approval of the 5% TACPA worksite preference. The workforce preferences are only awarded if the bidder hires and employs the TACPA qualified individuals. Workforce preferences will not be approved for another firm's employees. By claiming a workforce preference percentage, the bidder must have its eligible employees perform the specified percentage of the total contract workforce labor hours. See Section I, "total Projected Labor Hours," STD. 830. To claim the workforce preferences select or check the appropriate box for percent of requested bid preferences in Section II.

**Section III
Certification for Worksite and Workforce Preferences**

Bidder must sign, under penalty of perjury, the certification contained in Section III to be eligible for any of the preferences requested pursuant to this form. The penalties associated with the TACPA statute are: GC §4535.1, a business which requests and is given the preference by reason of having furnished a false certification, and which by reason of that certification has been awarded a contract to which it would not otherwise have been entitled, shall be subject to all of the following:

- (a) Pay to the State any difference between the contract amount and what the State's cost would have been if the contract had been properly awarded.
- (b) In addition to the amount specified in subdivision (a), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved.
- (c) Be ineligible to directly or indirectly transact any business with the State for a period of not less than six months and not more than 36 months.

Prior to the imposition of any sanction under this chapter, the contractor or vendor shall be entitled to a public hearing and to five days notice of the time and place thereof. The notice shall state the reasons for the hearing.

If you win an award based on these preferences you will be required to report monthly on your contract performance, labor hours, and TACPA compliance.

For questions concerning preferences and calculations, or if a bid solicitation does not include preference request forms, please call the awarding Department's contract administrator. Only another California certified small business can use TACPA, EZA or LAMBRA preferences to displace a California certified small business bidder.

To identify TACPA distressed worksites contact the local city or county Planning/Economic Development offices of the proposed worksite, or go to <http://factfinder.census.gov> and click on "Enter a street address" to find a Census Tract and Block Group. Verify the Census Tract and Block numbers for TACPA sites by calling the DGS, Procurement Division preference line at (916) 375-4609

REQUIRED ATTACHMENT CHECKLIST

A complete proposal package will consist of the items identified below. For your proposal to be responsive, all required items must be included.

Complete this checklist to confirm that all required items are included in your proposal. Place a check mark or "X" next to each item that you are submitting to the State. This checklist should be returned with your proposal package.

<u>Item</u>	<u>Item Name / Description</u>
_____ 1	Required Attachment Checklist (Attachment O)
_____ 2	Six Copies of the Proposal (in a sealed envelope)
_____ 3	Six Copies of the Cost Proposal (separate from the Proposal and in a sealed envelope)
_____ 4	Independence Questionnaire / Conflicts of Interest Disclosure (Attachment I)
_____ 5	Proposal/Proposer Certification Sheet (Attachment L)
_____ 6	Bidder Declaration (Attachment M)